



# **ATTORNEY GENERAL OF TEXAS**

## **TAXATION DIVISION**

### **COMPTROLLER OF PUBLIC ACCOUNTS CASE LIST AND SUMMARY OF ISSUES**

**JULY 2008**



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## Franchise Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-05-01845 AG Case #: 052154382

Filed: 5/23/2005

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$203,117.59	1994 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether the franchise tax requirement under Tax Code §171.110 to add back officer and director compensation to the tax base without voter approval is unconstitutional. Plaintiff claims disparate tax treatment based on the number of shareholders within a corporation, and violation of equal and uniform taxation and the Equal Protection Clause. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Plaintiff's Motion for Partial Summary Judgment filed 02/04/08. Defendants filed a Cross-Motion for Partial Summary Judgment on 04/15/08 and an Amended Motion for Partial Summary Judgment on 04/28/08. Cross-Motions for Summary Judgment heard on 05/15/08. Defendants' Amended Motion for Partial Summary Judgment granted on 06/05/08 and Plaintiff's Motion was denied.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN501854 AG Case #: 052154390

Filed: 5/23/2005

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$169,857.71	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

Opposing Counsel

Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the franchise tax requirement under Tax Code §171.110 to add back officer and director compensation to the tax base without voter approval is unconstitutional. Plaintiff claims disparate tax treatment based on the number of shareholders within a corporation, and violation of equal and uniform taxation and the Equal Protection Clause. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Motion granted 11/07/06 to consolidate into case styled 7-Eleven, Inc. v. Strayhorn, et al., Cause #GN501845.

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***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002389 AG Case #: 062380316

Filed: 6/29/2006

Franchise Tax; Refund

Claim Amount      Reporting Period

\$169,847.71      1997 - 1999

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine

OAG Taxation / Austin

Opposing Counsel

Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether add-back of officer compensation is a personal income tax requiring voter approval. Whether Section §171.110 and Rule 3.558 violate equal protection. Alternatively, whether the amount of add-back is overstated.

Status: Motion granted 11/07/06 to consolidate into case styled 7-Eleven, Inc. v. Strayhorn, et al., Cause #GN501845.

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***7-Eleven, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-002122 AG Case #: 082516196

Filed: 6/18/2008

Franchise Tax; Refund

Claim Amount	Reporting Period
\$247,921.30	2000 through 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether the officer compensation add-back provision is unconstitutional under the limitation on personal income taxes or equal protection.

Status: Answer filed.

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***Anadarko E&P Co., L.P. vs Combs, et al.***

Cause Number: D-1-GN-07003385    AG Case #: 072475932    Filed: 10/3/2007

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$4,518,016.85	1999-2001 Texas Franchise Tax Report

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether the Comptroller correctly calculated the value of impairment of it's long-lived assets under the applicable principles for successful efforts accounting.

Status: Parties agreed to suspend discovery during settlement discussions.

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***Anadarko Petroleum Corporation v. Combs, et al.***

Cause Number: D-1-GN-07-000670    AG Case #: 072441751    Filed: 3/6/2007

Franchise Tax; Refund

Claim Amount	Reporting Period
\$3,100,129.00	1995 - 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff may include proved reserves when computing impairment for long-lived assets. Whether Plaintiff is entitled to use an alternative GAAP method of computing accumulated depreciation and net pension liabilities. Whether Plaintiff is entitled to a franchise tax credit for tax paid on property used in manufacturing. Plaintiff requests that penalty and interest be waived.

Status: Discovery in progress.

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***Apache Corp. vs Compt., et al.***

Cause Number: D-1-GN-07003861      AG Case #: 072481518

Filed: 11/6/2007

Franchise Tax;

Claim Amount	Reporting Period
\$2,121,145.00	1998-1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff may make an impairment adjustment to its long-lived assets under the successful efforts accounting method and whether it may use a double declining balance method of depreciation.

Status: Answer filed.

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***AROC (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000882      AG Case #: 072445745

Filed: 3/23/2007

Franchise Tax; Protest & Refund



Claim Amount	Reporting Period
\$241,435.17	01/01/01 - 12/31/02
\$114,245.78	01/01/01 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether debts of the Plaintiff are inter-company debts or equity infusions, causing the debts to be treated as equity and therefore taxable. Plaintiff claims its assets had been collateralized to a third party lender in return for funding.

Status: Answer filed.

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***Brink's Home Security, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004615 AG Case #: 062430392

Filed: 12/14/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$91,372.00	2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bernal, Jr., Gilbert J.	Stahl, Bernal & Davies / Austin
Sewell, David J.	

Issue: Whether Plaintiff's gross receipts should include those receipts for services apportioned outside of the State. Plaintiff claims the Comptroller has misapplied the statutes and rules at issue and imposition of tax against Plaintiff is unconstitutional. Plaintiff claims violation of the Commerce Clause.

Status: Discovery in progress.

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***Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al.***

Cause Number: GN100332

AG Case #: 011409646

Filed: 2/1/2001

Franchise Tax; Protest

Claim Amount	Reporting Period
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\$300,772.95	1988 - 1994
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\$204,616.25	1988 - 1994
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether inclusion of access charges in Texas' gross receipts violates Comptroller rules on franchise tax treatment of interstate telephone receipts. Whether inclusion of the charges violates equal protection.

Status: Discovery stayed pending appeal of Southwestern Bell case.

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***Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000789 AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
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\$559,579.09	1994 - 1995
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Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller correctly applied Plaintiff's business loss carry-forward on earned surplus during years when the earned surplus surtax was computed at zero.

Status: Answer filed. Case placed on Dismissal docket for 03/28/07; Motion to Retain filed

03/26/08.

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***Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-001968 AG Case #: 072458797

Filed: 6/29/2007

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$122,419.77	1997 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Lyda, Kirk	Jones Day / Dallas
Gall, Maryann B.	Jones Day / Columbus, OH
Mansfield, Douglas M.	
Shambaugh, Phyllis J.	

Issue: Whether Plaintiff's out-of-state mail order business meets the "substantial nexus" requirement to justify franchise tax liability. Whether Plaintiff's activities at tradeshow in Texas exceeded the limitations set forth in Tax Code Section 171.084. Plaintiff claims violation of the Commerce Clause of the U.S. Constitution, Due Process Clause, Equal Protection Clause, and Tax Code Section 171.001(c). Plaintiff also requests waiver of penalty and attorneys' fees.

Status: Case consolidated into Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. Cause #D-1-GN-07-001967. Discovery in progress. Defendants' Motion for Summary Judgment set for hearing on 09/30/08 at 2:00 p.m.

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***DaimlerChrysler Services North American, L.L.C.***

Cause Number: GN401380

AG Case #: 041965591

Filed: 4/30/2004

Franchise Tax; Refund

Claim Amount	Reporting Period
\$2,123,382.74	1988 - 1991

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Meese, Matthew J.

Issue: How should proceeds from the sale of accounts receivables, including retail and wholesale, be calculated for franchise tax apportionment purposes. Whether Plaintiff's accounts receivables are capital assets or investments. Plaintiff claims that the Comptroller's use of the net gain method instead of the gross receipts method in calculating Plaintiff's total gross receipts for franchise tax apportionment purposes violates the Texas Tax Code, the Comptroller's rules, Comptroller policy, and the constitutional requirements of equal protection and equal and uniform taxation.

Status: Discovery in progress. Non-jury trial set for 11/10/08.

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***El Paso Corporation v. Strayhorn, et al.***

Cause Number: GN304213

AG Case #: 031879356

Filed: 10/28/2003

Franchise Tax; Protest

Claim Amount      Reporting Period

\$2,278,308.75      1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether severance pay and merger expenses were improperly included in Plaintiff's apportionment factor. Whether other income was improperly sourced or included. Whether certain deductions were erroneously disallowed. Plaintiff also seeks waiver of all penalty and interest.

Status: Discovery in progress. Non-jury trial set for November 10, 2008.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: GN503289

AG Case #: 052214558

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,107,256.04	2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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White, John D.	Jones, Walker, Waechter, Poitevent, Carrère & Denégre, L.L.P. / The Woodlands
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Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Inactive. Pending disposition of TGS-NOPEC case, Cause #GN500637.

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***First Company v. Rylander, et al.***

Cause Number: GN200229

AG Case #: 021556980

Filed: 1/24/2002

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,919,109.00	1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether the throwback rule is unconstitutional and violates P.L. 86-272. Whether apportionment under the throwback rule, when compared to a separate accounting method, creates such a gross disparity in taxable income as to be unconstitutional. Plaintiff also seeks declaratory judgment and attorneys' fees.

Status: Reviewing Plaintiff's documentation.

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***Galland Henning Nopak, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001409 AG Case #: 062312129

Filed: 4/21/2006

Franchise Tax; Protest

Claim Amount	Reporting Period
\$16,751.35	1995 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Davidson, William C.	Law Offices of Minter Joseph & Thornhill, P.C. / Austin
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Issue: Whether Plaintiff had sufficient nexus in Texas to be assessed taxes under both the taxable capital component and the earned surplus component of the Texas Franchise Tax.

Status: Answer filed.

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***Gulf Chemical & Metallurgical Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002313 AG Case #: 082518937

Filed: 7/2/2008

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$262,066.00	2001 through 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether tax credits were properly applied. Whether gross receipts were properly determined for fee/credit transactions. Whether the officer add-back provisions of the franchise tax are unconstitutional. Whether penalty should be waived.

Status: Answer filed.

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***Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004636 AG Case #: 062430582

Filed: 12/15/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$245,571.02	1997 - 2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: How should processing fees and metals credit be calculated for franchise tax apportionment purposes. Whether Plaintiff is entitled to a refund resulting from the elimination of the addback for officer and director compensation.

Status: Discovery in progress.

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***Kellwood Company, The v. Strayhorn, et al.***

Cause Number: GN500508

AG Case #: 052102654

Filed: 2/16/2005

Franchise Tax; Protest

Claim Amount	Reporting Period
\$129,355.44	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois Bryant Campbell & Schwartz, L.L.P. / Austin
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Issue: How should pension reversion gain be allocated for franchise tax apportionment purposes. Is the pension reversion gain non-unitary or unitary earned surplus income. Whether Plaintiff's pension reversion gain should be calculated with Plaintiff's Texas gross receipts. What methodology the Comptroller should apply to not distort the amount of taxable earned surplus apportionable to Texas. Plaintiff also claims violation of the Due Process and Commerce Clauses of the US Constitution and the Due Course of Law provision of the Texas Constitution.

Status: Court sent Notice of DWOP for 10/05/07. Plaintiff filed Motion to Retain 10/01/07.

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***Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000655 AG Case #: 062295894

Filed: 2/23/2006

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,862,261.31	1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff may deduct from its surplus the pre-acquisition negative retained earnings of a subsidiary's subsidiary. Whether Plaintiff may write-down subsidiary's investments in subsidiaries. Whether the Comptroller correctly determined Plaintiff's original cost basis in its subsidiary.

Status: Discovery in progress. Plaintiff will file a Motion for Summary Judgment in July 2008. To be set for Cross-Motions on Summary Judgment on or before December 18, 2008.

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***Owens Corning v. Strayhorn, et al.***

Cause Number: GN503923

AG Case #: 052240819

Filed: 10/28/2005

Franchise Tax; Refund

Claim Amount	Reporting Period
\$90,980.34	1992 - 1993

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff is entitled to a franchise tax credit. Whether deferred tax liabilities can be offset by deferred tax assets.

Status: Answer filed.

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***Southwestern Bell Telephone Company v. Rylander, et al.***

Cause Number: GN204559

AG Case #: 031730666

Filed: 12/20/2002

#03-07-00142-CV

#07-07-00172-CV

Franchise Tax; Protest

Claim Amount      Reporting Period

\$25,163,579.92      1996 - 1999; 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether local loop access charges are Texas receipts for franchise tax purposes.  
Whether treating the revenues as Texas receipts violates the Comptroller's Rule on interstate calls and the Due Process, Equal Protection and Commerce Clauses of the Constitution.  
Whether other charges related to message services are Texas receipts.

Status: First Amended Original Petition adding 2001 final report filed. Cross-MSJ hearing held 02/14/07. On 02/16/07 Defendants' MSJ granted; Plaintiff's denied. Notice of Appeal filed 03/08/07. Clerk's Record filed 03/21/07. Appellant's brief filed 04/20/07. Case transferred to Seventh Court of Appeals 05/01/07. Appellee's amended brief filed 06/27/07. Appellants' reply brief filed 07/23/07. Appellees' Pre-submission filed 05/27/08. Case submitted on oral argument to the Amarillo COA sitting in Austin on 06/09/08.

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***Texaco Refining & Marketing (East), Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000346

AG Case #: 072439326

Filed: 2/6/2007

Franchise Tax; Bill of Review

Claim Amount      Reporting Period

\$1,028,616.15      1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray  
Sigel, Doug

Issue: Plaintiff did not receive notice of the Court's intent to dismiss Plaintiff's prior protest/refund suit or of the final Order of Dismissal. (See AG#991249228, Cause #99-14555, attorney: Chris Jackson, closed 05/31/06 due to Order of Dismissal signed 06/15/05.) Whether Plaintiff is entitled to a franchise tax credit for sales tax paid on qualifying manufacturing equipment purchased by a joint venture that it co-owned.

Status: Defendants did not oppose Plaintiff's motion to reinstate and the original case was reinstated. Defendants' Motion to Dismiss set for 08/13/08 at 9:00 am.

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***TGS-NOPEC Geophysical Company v. Strayhorn, et al.***

Cause Number: GN500637

AG Case #: 052114220

Filed: 3/1/2005

#03-07-00640-CV

Franchise Tax; Protest

Claim Amount	Reporting Period
\$390,471.26	1997 - 2000
\$1,422,008.76	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine      OAG Taxation / Austin

*Opposing Counsel*

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McBride, James Thomas      Shook, Hardy & Bacon, L.L.P. / Houston

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payer or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also seeks attorneys' fees.

Status: Hearing on Cross-Motions for Summary Judgment heard on 07/16/07. Final Summary Judgment signed on 10/15/07. The court granted Summary Judgment to Defendants on the apportionment issue and granted Summary Judgment to Plaintiff on the penalty and interest issue. Defendants'/Cross-Appellants' Notice of Appeal filed 11/15/07. Court Reporter's Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed 05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Case set for submission on briefs on 07/17/08.

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***Tyson Foods, Inc. v. Strayhorn, et al.***

Cause Number: GN302279

AG Case #: 031818966

Filed: 6/27/2003

Franchise Tax; Refund

Claim Amount      Reporting Period

\$4,462,424.56      1992 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass &amp; McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff may re-state asset values for franchise tax purposes by using straight-line depreciation after it used accelerated depreciation to reduce asset values for federal income and franchise tax purposes before report year 1992. Whether penalty and interest should have been waived because Plaintiff's affiliates had overpayments during the audit period that could have been credited to Plaintiff's deficiencies. Amended Petition: Whether the throw-back statute violates the Commerce Clause; whether officer-director compensation add-back is constitutional.

Status: Hearing on Cross-Motions for Partial Summary Judgment held 07/19/06. On 07/26/06 the district court granted Defendants' Motion for Partial Summary Judgment and denied Plaintiff's on the depreciation/basis issue. Defendants filed a motion to dismiss remaining claims for LOP and a motion for judgment on 06/19/08.

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***Tyson Fresh Meats, Inc. formerly known as IBP, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000139

AG Case #: 072435753

Filed: 1/18/2007

Franchise Tax; Refund

Claim Amount      Reporting Period

\$3,100,934.20      1993 - 1996 (tax)

\$306,626.75      1993 - 1996 (penalty)

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff had sufficient nexus in Texas to be assessed taxes under both the taxable capital component and the earned surplus component of the Texas Franchise Tax. Whether the throw-back statute violates the Commerce Clause.

Status: Answer filed. Plaintiff produced documentation, which has been reviewed.

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***Viacom International, Inc. v. Strayhorn, et al.***

Cause Number: GN402433

AG Case #: 041999269

Filed: 7/30/2004

Franchise Tax; Protest

Claim Amount	Reporting Period
\$754,178.16	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Clark, Thomas & Winters / Austin

Issue: Whether revenue received from third-party cable television system operators is revenue earned from licensing or from the service of producing, creating, editing, packaging and transmitting 24-hour-per-day network programming performed out-of-state. Should revenue from providing these services be considered Texas receipts for franchise tax purposes. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Discovery in progress. Settlement negotiations in progress.

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***York International Corporation v. Strayhorn, et al.***

Cause Number: GN600153

AG Case #: 062275193

Filed: 1/13/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$362,337.18	1993 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to record the assets and liabilities of previously acquired entities at their historical book values for purposes of determining taxable capital under Tax Code Section 171.109(b). Whether the Comptroller incorrectly calculated Plaintiff's push-down adjustments under Tax Code Section 171.109(m). Whether the Comptroller used the proper accounting method to value transferred assets. Whether Plaintiff's claim is barred as a second refund.

Status: Discovery in progress. On the dismissal docket to be dismissed 01/30/08.

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## Sales Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$299,328.98	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether the purchase of bookkeeping software installed on computers located out-of-state and subsequently shipped to stores in-state qualifies for the sale for resale exemption.

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellants' brief due 07/21/08.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002424 AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$615,638.45	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff purchased non-taxable programming services rather than taxable software.

Status: Settlement negotiations in progress.

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***AccuTel of Texas, L.P. v. Rylander, et al.***

Cause Number: GN300091

AG Case #: 031735236

Filed: 1/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$45,658.15	06/01/97 - 11/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Malish, Christopher	Foster & Malish / Austin
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Issue: Whether Plaintiff should have been assessed interest and penalty.

Status: Answer filed.

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***Alcatel Network Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000104

AG Case #: 062271143

Filed: 1/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$908,670.54	05/01/93 - 10/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether purchases of software licenses qualify as tangible personal property with a useful life in excess of six months and used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale so as to be exempt



from sales tax. Whether display items and/or the materials used to make them are exempt from sales tax.

Status: Partial MSJ hearing held 12/17/07. Judgment granted for the State 01/11/08.

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***Alcatel Network Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003731 AG Case #: 062412861

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$908,670.54	05/01/93 - 10/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether purchases of tangible personal property with a useful life in excess of six months and used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale are exempt from sales tax. Whether display items and/or the materials used to make them are exempt from sales tax.

Status: Motion granted 11/14/06 to consolidate with case styled Alcatel Network Systems, Inc. v. Strayhorn, et al., Cause #D-1-GN-06-000104.

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***Allegiance Telecom of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000056 AG Case #: 062269030

Filed: 1/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,660,546.29	10/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether equipment purchased by Plaintiff is exempt from sales tax as tangible personal property used in manufacturing and processing. Whether freight charges are exempt from sales tax under the manufacturing exemption.

Status: Answer filed. Court sent Notice to Dismiss for Want of Prosecution on 01/30/08.

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***Alumax Mill Products, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000165 AG Case #: 072435746

Filed: 1/22/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$78,359.28	07/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether industrial solid waste removal is exempt as a real property service. Whether Plaintiff's purchases of repair and replacement parts for and repair services performed on rolling stock equipment are exempt from sales and use tax as services performed on exempt tangible personal property.

Status: Answer filed.

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***Anderson Merchandisers Holding, Inc. v. Strayhorn, et al.***

Cause Number: GN400421

AG Case #: 041921966

Filed: 2/11/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$28,353.00	07/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether industrial solid waste removal is exempt as a real property service.

Status: Answer filed.

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***Apache Corp. vs. Compt., et al.***

Cause Number: D-1-GN-08-001989 AG Case #: 082513300

Filed: 6/6/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$5,894,089.15	1/01/2003 through 06/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff's property qualifies for exemption under various provisions of section 151.318. Whether Plaintiff paid tax on non-taxable services. Whether some property was used for exempt environmental work. Whether sales prices were correctly determined.

Status: Answer filed.

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***Aramis Services, Inc. v. Rylander, et al.***

Cause Number: 0000384

AG Case #: 001273051

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$281,676.36	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Court sent Notice of DWOP for 08/23/02. Plaintiff filed Motion to Retain; granted 02/27/03. Court DWOP the case 06/15/05. Plaintiff filed Motion to Reinstate 07/12/05. Defendants filed first amended answer, plea to the jurisdiction, special exceptions and motion for attorneys' fees 11/17/06.

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***Aramis Services, Inc. v. Sharp, et al.***

Cause Number: 98-03527

AG Case #: 98930349

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$291,196.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/25/01. Court sent DWOP notice for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03. Defendants filed Motion to Dismiss 05/11/04; set for 05/20/04. Hearing passed by agreement.

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***Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004768

AG Case #: 072431349

Filed: 12/28/2006

Sales Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$343,876.21	03/01/02 - 08/31/05 -Sales Tax
\$39,699.43	03/01/02 - 08/31/05 -Mixed Beverage Gross Receipts

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin  
Seay, Michael B.

Issue: Whether Plaintiff should be assessed sales tax on door receipts collected by bands. Whether excess fees above an agreed dollar amount collected at the door and paid to Plaintiff are royalty rentals and real property rentals and not door receipts, which would be taxable sales. Plaintiff seeks injunction and attorneys' fees.

Status: Answer filed.

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***AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002080 AG Case #: 062365986

Filed: 6/7/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$21,934,496.00	01/01/95 - 07/31/04
\$1,484,356.00	01/01/00 - 07/31/04
\$1,391,152.00	01/01/00 - 07/31/04
\$22,827,857.00	01/01/00 - 07/31/04
\$4,435,506.00	01/01/99 - 07/31/04
\$4,435,506.00	01/01/00 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of electricity used in a manufacturing process are exempt from sales tax. Whether the manufacturing process used by Plaintiff results in a physical change to tangible personal property being resold. Whether electricity purchased and used to process tangible personal property for sale as tangible personal property is exempt from sales tax under the manufacturing and processing exemption. Whether Plaintiffs' purchases and/or leases of tangible personal property directly used or consumed in or during a manufacturing process are exempt from sales tax.

Status: Answer filed.

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***Austin Engineering Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000565 AG Case #: 072440159

Filed: 2/23/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$53,654.00	01/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether fees that Plaintiff received for erosion control services, environmental construction services and utility construction services are exempt from sales and use tax. Whether services performed by Plaintiff to exempt entities are exempt from sales and use tax. Whether Plaintiff's transactions with its customers qualify as non-taxable or exempt services, or included the sale of tangible personal property, thus making certain items taxable. Plaintiff claims the Comptroller erroneously assessed tax on purchases which were non-taxable or exempt, or on which the sales and use tax had already been paid. Plaintiff claims violation of equal protection, equal and uniform taxation, and the Commerce clause.

Status: Discovery in progress.

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***Awad, Mike v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003807 AG Case #: 062419668

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$196,853.60	07/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Roberts, William A.

The Roberts Law Firm / Dallas

Coleman, Kyle

Issue: Whether Plaintiff's business products are exempt as "sale for resale" items or taxable. Whether the Comptroller erred by misapplying burden of proof and whether the requirement is constitutional. Whether Tax Code §112.108 is constitutional. Plaintiff claims violation of due process, that all penalties and interest be waived, and attorneys' fees.

Status: Jurisdictional plea, motion to dismiss and counterclaim filed. Discovery in progress.

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***BASF Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002140 AG Case #: 082514696

Filed: 6/19/2008

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$555,792.90      10/01/97 thru 12/31/01 and 01/01/02 thru 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark

OAG Taxation / Austin

*Opposing Counsel*

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Bishop, II, Daniel W.

Goolsby, Christin E.

Issue: Whether contract labor services were taxable. Whether penalty and interest relating to settlement amounts on the services issue should also be refunded.

Status: Answer filed.

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***Bell Bottom Foundation Company v. Rylander, et al.***

Cause Number: 99-01092

AG Case #: 991112186

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount      Reporting Period

\$81,571.73      01/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M.

The Trickey Law Firm / Austin

Issue: Whether taxpayer's sub-contract was a separated contract since the general contractor's construction contract was separated.

Status: Case dismissed for want of prosecution 06/17/03. Motion to Reinstate granted.

Negotiating an agreed scheduling order. Motion to Retain filed 11/29/06.

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***Bell Helicopter Textron, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002279 AG Case #: 082516972

Filed: 6/27/2008

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,438,127.83      01/01/01 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit. Whether Plaintiff is entitled to the manufacturing exemption for property sold under the applicable FAR's even though the government may not take possession of the manufactured property. Whether Plaintiff's gas and electricity are used in manufacturing.

Status: Answer filed.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN401955

AG Case #: 041988023

Filed: 6/21/2004

Sales Tax; Refund

Claim Amount      Reporting Period

\$3,750,000.00      12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin



*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial set for 07/28/08.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000787 AG Case #: 062296876

Filed: 3/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,029,344.00	06/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial set for 07/28/08.

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***Boeing North America, Inc. v. Rylander, et al.***

Cause Number: GN203340

AG Case #: 021676804

Filed: 9/13/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$343,487.00	01/01/95 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H. Clark, Thomas & Winters / Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Answer filed.

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***Boeing North America, Inc. v. Strayhorn, et al.***

Cause Number: GN304372

AG Case #: 031884471

Filed: 11/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$500,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***Broadwing Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003733 AG Case #: 062412879

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$217,355.92	01/01/99 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Osterloh, Curtis J.

Issue: Whether finish-out work or improvements to real property is subject to tax when a part of the structure and leased space had been previously used and occupied.

Status: Discovery in progress.

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***Burns, Kevin D. v. Strayhorn, et al.***

Cause Number: GN504208

AG Case #: 052253457

Filed: 11/28/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$1,300,000.00      01/01/96 - 10/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the transfer of certain tangible personal property from customers to Plaintiff to be leased back to customers with a purchase option are non-taxable financing transactions. Whether sales taxes previously submitted are binding within Plaintiff's bankruptcy plan. Plaintiff claims violation of equal and uniform taxation, and also seeks attorneys' fees.

Status: Discovery in progress.

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***C & T Stone Company v. Rylander, et al.***

Cause Number: GN002428

AG Case #: 001344233

Filed: 8/18/2000

Sales Tax; Protest

Claim Amount      Reporting Period

\$207,454.40      04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Peckham, William T. Attorney at Law / Austin

Issue: Whether Plaintiff owes sales tax on its sales of limestone to third parties under §151.311(a). Whether Plaintiff detrimentally relied on advice from the Comptroller's Office. Whether exemption certificates covered some sales that were assessed tax. Whether Plaintiff is entitled to the manufacturing exemption under §151.318(g). Whether penalty and interest should be waived.

Status: Discovery in progress.

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***Cashiola, James v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004629 AG Case #: 072434863

Filed: 12/15/2006

Sales Tax; Administrative Appeal

Claim Amount	Reporting Period
\$1,112,768.76	11/21/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Grimsinger, William O. Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Issue: Whether Plaintiff owes sales tax under successor liability. Plaintiff claims the Comptroller audited the acquired company for the same telecommunications consulting services and previously found no sales tax liability due. Plaintiff claims debts were created without his knowledge and the exercise of reasonable diligence would not have revealed the intention to create a tax debt.

Status: No Evidence Motion filed by Plaintiff. Consideration on repleading answer.

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***CEC Entertainment, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004594 AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$244,808.38	01/01/02 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Plaintiff claims that paying sales tax on prizes awarded to successful contestants of coin-operated and non-coin operated games and on the admission price of non-coin operated games, in addition to annual occupational taxes, would be double taxation. Plaintiff claims violation of equal and uniform taxation, and due process.

Status: Answer filed.

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***Cellular City Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004410 AG Case #: 062427919

Filed: 11/21/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$352,932.44	09/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption.

Status: Answer filed.

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***Centreport Partners, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07-000152 AG Case #: 072435795

Filed: 1/19/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,095.15	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Chapal Zenray, Inc. v. Rylander, et al.***

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

Sales Tax; Protest

Claim Amount	Reporting Period
\$210,943.91	01/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Osterloh, Curtis J.	

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Discovery in progress. Plaintiff's motion for summary judgment filed 03/21/07. MSJ's set for 08/12/08.

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***Chevron USA, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000292 AG Case #: 072453475

Filed: 12/6/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$9,560,775.78	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether tax paid on discounted portions of Plaintiff's purchases should be refunded.  
Whether tax paid at an incorrect tax rate should be refunded.

Status: Case severed from original case styled Chevron USA, Inc. v. Strayhorn, et al., Cause #GN403978. Motion for Partial Summary Judgment set for 04/02/08. Comptroller's Plea to the Jurisdiction granted. Motion for new trial granted 06/25/08.

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***Chevron USA, Inc. v. Strayhorn, et al.***

Cause Number: GN403978	AG Case #: 042071324	Filed: 12/6/2004
#03-07-00127-CV		

Sales Tax; Refund

Claim Amount	Reporting Period
\$439,225.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether charges of contractors for erecting, maintaining and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Discovery in progress. Hearing on cross-motions for summary judgment held 06/28/06.

Chevron's motion for partial summary judgment granted; Comptroller's motion denied. Hearing for judgment held 01/31/07. Chevron's motion to sever granted; final judgment entered. State's Notice of Appeal filed 02/28/07. Clerk's Record filed 03/20/07. Court Reporter's Record filed 03/29/07. Appellants' brief filed 05/17/07; Oral Argument requested. Appellee's brief filed 06/15/07; Oral Argument requested. Appellants' reply brief filed 07/23/07. Case submitted on Oral Argument on 11/28/07.

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***Church & Dwight Company, Inc. v. Rylander, et al.***

Cause Number: GN000525

AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

Claim Amount	Reporting Period
\$64,868.50	10/01/90 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Benesh, W. Stephen                  Bracewell & Patterson / Austin  
Sampson, Jr., Phillip L.

Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state. Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Plaintiff waiting for outcome of Estee Lauder Services, Inc. cases. Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of review 11/22/05.

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***City of Webster and the Webster Economic Development Corporation v. Strayhorn***

Cause Number: D-1-GV-06-001823    AG Case #: 062409446

Filed: 9/15/2006

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$502,620.70	05/01/02 - 01/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                  OAG Taxation / Austin

*Opposing Counsel*

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Feldman, David M.  
Cowan, Robert W.

Feldman & Rogers, L.L.P. / Houston

Gregg, Jr., Dick H.

Gregg & Gregg, P.C. / Houston

Issue: Whether the Comptroller's repayment request violates the procedural and substantive due course of law provisions of the Texas Constitution. Whether the Comptroller should have granted Plaintiffs notice or a hearing prior to making the repayment request. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08.

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***Clear Lake City Community Association, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004281 AG Case #: 062425582

Filed: 11/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,936.63	08/01/00 - 10/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

Knobelsdorf II, John C.

Attorney at Law / Houston

Issue: Whether Plaintiff, as an exempt organization, is an exempt consumer of taxable real

property services and not a seller of such services. Whether waste hauling service provided to association homeowners and paid for by Plaintiff is exempt from sales tax.

Status: Answer filed.

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***Clinique Services, Inc. v. Rylander, et al.***

Cause Number: GN000376

AG Case #: 001273069

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$650,361.82	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Court sent Notice of DWOP for 08/23/02. Plaintiff filed Motion to Retain; granted 02/27/03. Court DWOP on 06/15/05. Plaintiff filed Motion to Reinstate 07/12/05; granted 07/12/05. Defendants filed first amended answer, plea to the jurisdiction, special exceptions and motion for attorneys' fees 11/17/06.

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***Clinique Services, Inc. v. Sharp, et al.***

Cause Number: 98-03533

AG Case #: 98930330

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$519,192.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03. Plaintiff filed Motion to Retain; granted 03/27/06. Set for trial on 11/10/08.

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***Clinique Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500049

AG Case #: 052085933

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$654,245.96	04/01/98 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Coca-Cola Company, The v. Strayhorn, et al.***

Cause Number: GN504213

AG Case #: 052253473

Filed: 11/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,060,883.03	07/01/97 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Hagenswold, R. Eric  
Osterloh, Curtis J.

Issue: Whether replacement parts and the repair of fountain drink machines leased to customers by Plaintiff are exempt from sales tax as manufacturing equipment and the sale for resale exemption.

Status: Answer filed.

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***Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-001967    AG Case #: 072458896

Filed: 6/29/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$2,122,997.61	01/01/97 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine                      OAG Taxation / Austin

*Opposing Counsel*

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Lyda, Kirk                      Jones Day / Dallas  
Gall, Maryann B.                      Jones Day / Columbus, OH  
Mansfield, Douglas M.  
Shambaugh, Phyllis J.

Issue: Whether Plaintiff's out-of-state mail order business meets the "substantial nexus" requirement to justify sales tax liability. Plaintiff claims violation of the Commerce Clause of the U.S. Constitution, Due Process Clause, Equal Protection Clause, and Tax Code Section 171.001(c). Plaintiff also requests waiver of penalty and attorneys' fees.

Status: Answer filed. Discovery in progress. Motion to Consolidate into case styled Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al., Cause # D-1-GN-07-001968 granted 09/21/07. Defendants' Motion for Summary Judgment set for hearing on 09/30/08 at 2:00 p.m.

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***Cosmair, Inc. v. Strayhorn, et al.***

Cause Number: GN302009

AG Case #: 031816135

Filed: 6/9/2003

Sales Tax; Protest &amp; Declaratory Judgment

Claim Amount	Reporting Period
\$1,322,536.67	07/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.              Jones Day / Dallas  
Lyda, Kirk

Issue: Whether Plaintiff owes use tax on items transferred free of charge that are subsequently brought into Texas. Plaintiff specifically challenges whether: 1) “use” includes distribution; 2) use was only out-of-state where control transferred; 3) longstanding policy may be changed; 4) Rule 3.346 does not support tax on promotional materials; 5) use tax applies without title or possession; 6) no consideration for transfer; 7) Rule 3.346(b)(3)(A) is invalid; 8) tax is bared by Commerce, Due Process and Equal Protection Clauses; and 9) resale exemption applies. Plaintiff also seeks attorneys’ fees.

Status: Answer filed. Agreed Motion to Retain filed 04/23/07; granted 08/14/07.

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***Crown Central Petroleum Corporation v. Strayhorn, et al.***

Cause Number: GN504190

AG Case #: 052260197

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$136,903.16	12/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                  Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether charges of contractors for erecting, moving and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property. Whether certain work performed by contractors is new construction under a lump sum contract and thus not taxable.

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment filed 02/11/08.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-063567

AG Case #: 062410139

Filed: 9/21/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Beam, Patrick L.	Attorney at Law / Aransas Pass
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Issue: Whether Plaintiff's charter of a vessel is leased property subject to sales and use tax. Whether the vessel was used or received within the state. Plaintiff claims that the Comptroller does not have legal authority to collect the assessed tax.

Status: Answer filed.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004734 AG Case #: 072432578

Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Beam, Patrick L.	Attorney at Law / Aransas Pass
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Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the

vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Answer filed.

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***Delta Air Lines, Inc. v. Strayhorn, et al.***

Cause Number: GN400439

AG Case #: 041925868

Filed: 2/13/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,642,267.15	02/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff's purchases of janitorial and building maintenance services being resold under a lease agreement are exempt under the sale for resale exemption. Whether Plaintiff's purchases of mechanical maintenance services were exempt as taxable services purchased in the performance of a real property contract for an exempt entity.

Status: Trial set for 12/08/08.

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***Design Masterpiece Landscaping, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001691

AG Case #: 062337985

Filed: 5/12/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$68,630.03	06/01/99 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether landscaping services sold under lump-sum contracts by Plaintiff to homeowners are exempt as real property services. Whether a homeowner can contract with a homebuilder and still act as a contractor. Plaintiff requests that interest be waived. Plaintiff also claims violation of due process, equal protection, and equal and uniform taxation.

Status: Plaintiff's Motion for Summary Judgment filed 09/24/07.

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***EFW, Inc. v. Rylander, et al.***

Cause Number: GN200906

AG Case #: 021579578

Filed: 3/19/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$123,440.25	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	
Osterloh, Curtis J.	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***EFW, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000058

AG Case #: 062269022

Filed: 1/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$600,000.00	04/01/98 - 08/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug  
Osterloh, Curtis J.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003071 AG Case #: 062403696

Filed: 8/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,416,604.28	01/01/92 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff is entitled to a refund of sales and use tax on services provided by contract labor, certain manufacturing equipment, services performed on manufacturing equipment, materials needed for machinery and equipment used in the manufacturing process, maintenance of real property, new construction, non-taxable services, programming services, manufacturing equipment with a useful life of six months or less, property shipped out-of-state, repair of real or tangible personal property resulting in a casualty loss, hazardous and industrial waste removal services, safety supplies, items and materials used for quality control purposes, pollution control equipment, and other non-taxable items.

Status: Plea to the Jurisdiction filed 07/31/07. Hearing held 12/20/07. Plea to the Jurisdiction denied 01/16/08.

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***ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500048

AG Case #: 052085990

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$586,255.47	07/01/99 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.***

Cause Number: GN203514	AG Case #: 021681226	Filed: 9/26/2002
Sales Tax; Protest & Declaratory Judgment		

Claim Amount	Reporting Period
\$284,508.69	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Answer filed.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500047

AG Case #: 052085966

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$750,946.09	03/01/98 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Embassy Equity Development Corporation, et al. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004267

AG Case #: 062425566

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$11,487.10	01/01/96 - 12/31/98
	06/01/97 - 05/31/01
\$10,494.52	01/01/95 - 12/31/98
\$17,485.53	12/01/98 - 03/31/02
\$2,615.82	01/01/98 - 12/31/00
\$4,190.26	09/01/94 - 06/30/97
\$1,658.68	09/01/94 - 05/31/98
\$2,894.76	09/01/94 - 03/31/98
\$4,044.05	07/01/95 - 12/31/98

01/01/99 - 05/31/02

\$1,440.73      09/01/94 - 08/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                      Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Entertainment Publications, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002240    AG Case #: 082517616

Filed: 6/26/2008

Sales Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Baker, Scott                      McGinnis, Lochridge & Kilgore, LLP / Austin

Galant, Carl

Issue: Whether Plaintiff may be considered a retailer under 151.024, for fund-raising materials that it provided to schools, PTA's, and similar organizations. Whether Plaintiff is entitled to injunctive and declaratory relief. Whether the sale for resale exemption applies.

Status: Trial court denied Defendant's Plea to the Jurisdiction and granted a temporary injunction. Trial set for 10/13/08.

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***Estee Lauder Services, Inc. v. Rylander, et al.***

Cause Number: GN101312

AG Case #: 011439874

Filed: 5/1/2001

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$614,814.78      04/01/96 - 06/30/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Answer filed.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03525

AG Case #: 98930358

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$472,225.00      01/01/89 - 09/30/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 06/15/02; granted 02/03/03. See *Estee Lauder Services, Inc. v. Sharp, et al.*, Cause #98-03524.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03524

AG Case #: 98930367

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$748,773.00      10/01/92 - 03/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 02/03/03. Numerous scheduling orders have been entered in this case since 2003; the latest being 11/2006. Discovery in progress.

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***Ethicon, Inc. v. Strayhorn, et al.***

Cause Number: GN304779

AG Case #: 041904616

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
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\$52,616.94	01/01/96 - 12/31/99
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	01/01/94 - 12/31/95
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Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Sigel, Doug

Issue: Whether Plaintiff leased real property not subject to the sales and use tax.

Status: Motion for Summary Judgment hearing held 04/19/06. Settlement negotiations in progress.

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***ExxonMobil Oil Corporation v. Combs, et al.***

Cause Number: D-1-GN-07-001398

AG Case #: 072452881

Filed: 5/11/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$2,615,400.64	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Taylor, III, Jasper G.	Fulbright & Jaworski / Houston
Chadha, Jayash M.	

Issue: Whether tangible personal property with an operator is non-taxable as leased equipment. Whether shipping and freight charges paid directly by Plaintiff are non-taxable. Whether charges to maintain real property during a "turnaround" are taxable. Plaintiff requests that penalty be waived.

Status: Answer filed.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekkessi v. Rylander, et al.***

Cause Number: GN002724	AG Case #: 001353960	Filed: 9/15/2000
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Sales Tax; Injunction

Claim Amount	Reporting Period
\$360,671.05	12/01/90 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Isgitt, Percy L. "Wayne"	Law Offices of Percy L. "Wayne" Isgitt, P.C. / Houston
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Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Discovery in progress.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201322

AG Case #: 021598057

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$7,000,000.00	09/01/88 - 11/30/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201323

AG Case #: 021598073

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$4,500,000.00	12/01/91 - 02/28/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***Gift Box Corporation of America, Inc. v. Rylander, et al.***

Cause Number: GN102934

AG Case #: 011492865

Filed: 9/5/2001

Sales Tax; Protest



Claim Amount	Reporting Period
\$359,929.22	10/1991 - 03/1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois Bryant Campbell & Schwartz, L.L.P. / Austin
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Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Case reinstated. Plaintiff to make settlement offer.

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***Golf Works, Inc. vs Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-000129 AG Case #: 082491648

Filed: 1/9/2008

Sales Tax; Protest

Claim Amount	Reporting Period
\$286,683.00	1/1/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
Seay, Michael B.	

Issue: Whether construction of golf courses is a taxable real property service.

Status: Discovery in progress.

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***Graybar Electric Company, Inc. v. Sharp, et al.***

Cause Number: 97-01795

AG Case #: 97682966

Filed: 2/13/1997

Sales Tax; Protest

Claim Amount	Reporting Period
\$107,667.00	01/01/88 - 12/31/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether the sample audit resulted in a correct assessment.

Status: Settlement negotiations in progress. Unopposed Motion to Retain filed 09/25/06 by Plaintiff; granted 02/26/07.

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***Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.***

Cause Number: GN300904

AG Case #: 031782931

Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$79,688.23	06/01/95 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                      Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***GSC Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN501091

AG Case #: 052132271

Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$241,656.28	02/01/97 - 04/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501921

AG Case #: 052163441

Filed: 5/27/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$130,801.55	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff used the proper sampling method to determine the amount of credit/reimbursement due on bad debt deductions. Plaintiff seeks waiver of penalty assessed in the audit. Plaintiff also claims violation of due course of law, due process, equal and uniform taxation, equal rights, equal protection, and other provisions of the Texas Tax Code, Rules, Texas and U.S. Constitutions.

Status: Answer filed.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000649

AG Case #: 062295480

Filed: 2/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,193,519.44	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Answer filed.

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***GTE Southwest, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000058 AG Case #: 072433519

Filed: 1/8/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,313.96	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether telecommunication signals constitute tangible personal property exempt from tax under the manufacturing and processing exemption. Whether equipment used in or during the processing of telecommunication signals causes a physical change to the signals. Whether the processing of telecommunication signals, which Plaintiff claims are tangible personal property, should be treated as a sale.

Status: Answer filed.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501139

AG Case #: 052132818

Filed: 4/11/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$22,847,194.00	01/01/95 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Osterloh, Curtis J.

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Answer filed. Plaintiff filed Motion for Partial Summary Judgment 01/25/08. Motion set for 07/02/08. Defendants filed Cross-motion for Summary Judgment 06/03/08. Additional Response to Plaintiff's Motion for Partial Summary Judgment filed by Defendant on 06/24/08. Plaintiff's Reply to Defendants' MSJ filed 06/24/08. Summary judgment motions heard 07/02/08.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501829

AG Case #: 052154143

Filed: 5/19/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,000,000.00	10/01/93 - 02/28/98
\$72,000,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be

waived because Plaintiff had substantial overpayment during the audit period.

Status: Court order signed 02/03/08 to consolidate with case styled GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN504191.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN502330

AG Case #: 052177326

Filed: 7/6/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,615,825.26	05/01/91 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Answer filed.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN504191

AG Case #: 052252699

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,489.27	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold.

Status: Case consolidated into case styled GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN501829 per court order signed 02/03/08.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003732 AG Case #: 062412887

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,900,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether electricity purchased by Plaintiff to perform telecommunications services is exempt as tangible personal property that was resold. Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Answer filed.

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***GTE Southwest, Inc. vs Compt., et al.***

Cause Number: D-1-GN-08-001419 AG Case #: 082507401

Filed: 4/24/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$694,870.88	May-June 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff may recover additional interest and payment discounts on taxes for which it provided a refund assignment.

Status: Answer filed.

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***Harsco Corp. vs Combs, et al.***

Cause Number: D-1-GN-07-004512 AG Case #: 082486747

Filed: 12/28/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$886,138.23	02/01/97-06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Martin, Mark R.	Gardere Wynne & Sewell / Dallas
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Issue: Whether scaffolding is exempt. Whether interest and penalty should be waived. Whether interest was properly calculated.

Status: Answer filed.

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***Health Care Service Corp., et al. vs. Compt., et al.***

Cause Number: D-1-GN-08-001771 AG Case #: 082512302

Filed: 5/23/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,475,798.29	1-1-1999 through 12-31-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to the resale exemption pursuant to the Day & Zimmerman and Raytheon cases.

Status: Answer filed.

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***Herndon Marine Products, Inc. v. Sharp, et al.***

Cause Number: 91-14786

AG Case #: 91164788

Filed: 10/18/1991

Sales Tax; Refund

Claim Amount	Reporting Period
\$62,465.00	01/01/87 - 03/31/90

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Bell, John D.	Wood, Boykin & Wolter / Corpus Christi
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Issue: Whether predominant use of electricity from Plaintiff's meter is exempt. Whether burden of proof in administrative hearing should be clear and convincing evidence or preponderance of the evidence.

Status: Special exceptions and answer filed.

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***Home & Garden Party, Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001392

AG Case #: 062311402

Filed: 4/21/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$791,634.49	01/01/98 - 05/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Brophy, Jr., Richard E.	Beard Kultgen Brophy Bostwick & Dickson, L.L.P. / Waco
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Hobbs, Mark C.

Issue: Whether packaging materials and supplies used in the manufacturing of tangible personal property for sale are exempt under the sale for resale exemption. Plaintiff claims unconstitutional administrative discrimination and violation of due process and equal protection under the U.S. and Texas Constitutions.

Status: Discovery in progress.

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***Home Depot, USA, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002463 AG Case #: 062380324

Filed: 7/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,595,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff may take bad debt credit under private label credit agreement.

Status: Answer filed.

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***Houston Wire & Cable Company v. Strayhorn, et al.***

Cause Number: GN500581

AG Case #: 052113057

Filed: 2/23/2005

#03-07-00006-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$160,596.03	08/01/97 - 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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Starkey, Jerry L. Attorney at Law / Houston

Issue: Whether wire, cable and reels purchased, customized and sold to wholesalers as non-

returnable are exempt from sales tax under the manufacturing exemption and sale-for-resale exemption.

Status: Trial held 10/09/06. Final Judgment signed 11/06/06 in favor of State. Notice of Appeal filed by Plaintiff 01/04/07. Clerk's Record filed 02/01/07. Court Reporter's Record filed 03/26/07. Appellant's brief filed 06/19/07; Oral Argument requested. Appellees' brief filed 07/18/07; Oral Argument requested. Supplemental Clerk's Record filed 07/20/07. Appellants' reply brief filed 08/14/07. Case submitted on briefs 10/09/07. Memorandum Opinion issued 12/12/07 affirming the district court's judgment. Appellant's Motion for Extension of Time to File Motion for Rehearing filed 12/21/07; granted 12/28/07. Appellant's Motion for Rehearing filed 01/17/08. Response requested by the Court 01/29/08. Appellee's Motion for Extension filed 02/04/08; granted 02/06/08. Response filed 02/22/08. Original Memorandum Opinion withdrawn and substituted Memorandum Opinion overruling Appellant's Motion for Rehearing issued 03/12/08. Petition for Review filed in the Supreme Court on 04/28/08; denied 06/27/08.

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***I-Ball Corp., dba The Gatsby Social Club v. Combs, et al.***

Cause Number: D-1-GN-07-001100 AG Case #: 072449465

Filed: 4/13/2007

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$81,872.57	07/01/00 - 09/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Monshaugen, Ronald A.	Monshaugen & Van Huff, P.C. / Houston
Van Huff, Albert T.	
Gaunt, Deborah L.	

Issue: Whether the Plaintiff is liable for sales tax on admission/cover fees into its facility for promotional events held by a contracted third party.

Status: Plaintiff's First Amended Petition filed 10/18/07, seeking to recover sales tax paid under protest. Defendants' Amended Original Answer filed 10/23/07.

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***J.C. Penney Company, Inc. v. Strayhorn, et al.***

Cause Number: GN300883

AG Case #: 031770613

Filed: 3/19/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$951,802.17	01/01/91 - 03/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether Plaintiff owes use tax on paper, ink and the printing of catalogs printed out-of-state. Whether local use tax in McAllen, Texas applies to Plaintiff's aircraft. Alternatively, whether the printing service is performed outside Texas. Whether a sales and use tax on the catalogs violates the Commerce Clause, due process or equal protection. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***J.C. Penney Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002496 AG Case #: 062381678

Filed: 7/7/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$4,007,735.00	04/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	
Schenck, David J.	

Issue: Whether Plaintiff owes sales or use tax on paper, ink and printing labor of catalogs printed out-of-state; on unidentified transactions used in the CAMS sample; on duplicated software licenses distributed to users outside of Texas; on catalogs and promotional materials mailed and distributed into Texas; and wrapping and packaging supplies used to package goods for delivery to customers. Plaintiff claims violation of the Commerce Clause and the Due Process Clause, and equal and uniform protection. Plaintiff also seeks declaratory relief

and attorneys' fees.

Status: Answer filed.

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***Jerman Cookie Company v. Rylander, et al.***

Cause Number: GN101492

AG Case #: 011451598

Filed: 5/16/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$43,121.45	12/01/92 - 03/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Williard, Steve M.                      Meyer, Knight & Williams / Houston  
Knight, L. Don

Issue: Whether Plaintiff's sale of cookies and brownies is taxable under Tax Code §151.314 and Comptroller Rule 3.293. Plaintiff also seeks review under the Administrative Procedures Act and the UDJA, and seeks attorneys' fees.

Status: Amended Petition filed. Discovery in progress. Plaintiff's Motion to Retain filed 07/13/05; granted 10/03/05. Trial set 06/23/08. Settlement negotiations in progress. Hearing on Cross-Motions for Summary Judgment held 06/09/08. Judgment granting Defendants' Cross-MSJ entered 06/25/08.

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***La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004633    AG Case #: 062430566

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,958.18	07/01/00 - 06/30/04
\$5,591.87	07/01/00 - 06/30/04
\$31,330.82	07/01/00 - 06/30/04
\$21,811.57	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN300575

AG Case #: 031759657

Filed: 2/21/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,726.00	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$591,086.00	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether post-mix machines qualify for manufacturing tax exemption. Whether some of the machines also qualify for the sale for resale exemption, because Plaintiff received consideration even if not valued in money.

Status: Plaintiff filed a Motion for Summary Judgment 04/23/05. Plaintiff to withdraw Motion for Summary Judgment and refile.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN401379

AG Case #: 041964941

Filed: 4/30/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$18,579.66	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$443,299.77	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
 Langenberg, Ray  
 Osterloh, Curtis J.

Issue: Whether Plaintiff owes sales tax on the purchase of money validators due to the integration of the validators into the final product, the vending machine.

Status: Discovery in progress.

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***Laredo Pizza, Inc., and Samuel L. Alford, and L & H Pacific, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401507

AG Case #: 041971482

Filed: 5/12/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$34,965.35	07/01/92 - 08/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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Rothfelder, Richard L. Rothfelder & Falick, L.L.P. / Houston  
 Falick, Michael C.

Issue: Whether prizes awarded by Plaintiff to successful contestants of amusement machines were purchased for resale and exempt from sales tax. Whether the sale of food, beverage and party packages is taxable as food and beverage or non-taxable as amusement services. Whether assets transferred from one subsidiary to another are exempt from sales tax as an "occasional

sale.”

Status: Defendants’ First Amended Original Answer, Plea to the Jurisdiction and Special Exception filed 06/27/05.

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***Lee Construction and Maintenance Company v. Rylander, et al.***

Cause Number: 99-01091

AG Case #: 991112160

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$31,830.47	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M.                      The Trickey Law Firm / Austin

Issue: Various issues, including credits for bad debts, tax paid, tax on new construction and tax paid in Louisiana, resale exemptions and waiver of penalty and interest.

Status: Settlement negotiations pending. Trial to be reset. Motion to Retain filed by Plaintiff 11/29/06. Order granting Motion to Retain signed 03/27/07.

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***Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P.***

Cause Number: GN201252

AG Case #: 041926635

Filed: 1/1/1901

#03-06-00391-CV

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                                      OAG Taxation / Austin

*Opposing Counsel*

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Perlmutter, Mark L.                      Perlmutter & Schuelke, L.L.P. / Austin  
Schuelke, C. Brooks

Issue: Plaintiff claims a refund for the class of persons who paid sales tax on rebates. Plaintiff seeks declaratory judgment interpreting Texas Tax Code Sections pertaining to cash discounts



and exemption from sales tax.

Status: Class-action suit. Comptroller named defendant. Comptroller's Plea to the Jurisdiction and Plaintiffs' Motion for Declaratory Judgment heard 10/19/04. Plea granted. Court requested briefs to address whether any part of case survives the Amended Order dismissing all claims against the Comptroller. Court signed order of severance and Notice of Appeal filed by Plaintiffs 07/06/06 to include all parties. Clerk's Record filed 08/07/06. Appellants' brief due 10/30/06. Appellees' brief due 11/29/06. Appellant filed amended docketing statement 10/20/06 excluding Comptroller from appeal. Oral argument held 03/07/07. Affirmed in part, reversed in part. Settlement class approved by preliminary order. Plaintiffs have filed a refund claim.

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***Liberty Vending Services, Inc. v. Strayhorn, et al.***

Cause Number: GN502836

AG Case #: 052198108

Filed: 8/11/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$9,000.00	10/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is liable for sales and use tax on sales of food items, soft drinks and candy sold through contracted vending machines located at exempt locations. Whether the Comptroller improperly categorized certain food item purchases as taxable. Plaintiff seeks injunctive relief and release of all state tax liens. Plaintiff claims violation of constitutional rights and equal protection and equal taxation. Plaintiff also claims violation of the Commerce Clause and the Supremacy Clause.

Status: Answer filed.

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***Lockheed Corporation v. Rylander, et al.***

Cause Number: GN201000

AG Case #: 021583745

Filed: 3/26/2002

D-1-GN-02-001000

Sales Tax; Refund

Claim Amount	Reporting Period
\$7,000,000.00	03/01/93 - 01/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Plaintiff filed Motion to Retain; granted 05/23/07.

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***Lockheed Martin Corporation v. Rylander, et al.***

Cause Number: GN200999

AG Case #: 021583737

Filed: 3/26/2002

Sales Tax; Refund

Claim Amount      Reporting Period

\$3,500,000.00      01/01/96 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al.***

Cause Number: GN400625

AG Case #: 041928870

Filed: 2/26/2004

Sales Tax; Refund

Claim Amount      Reporting Period

\$1,025,000.00      01/01/99 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***Lone Star Steel Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000500 AG Case #: 062286174

Filed: 2/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$350,000.00	12/01/97 - 11/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Clark, Thomas & Winters / Austin

Smith, L. G. (Skip)

Issue: Whether Plaintiff's horizontal rollers used to alter steel strips qualify for the manufacturing exemption. Whether the horizontal rollers are consumed and become an ingredient or component part of the steel strip during the production process and exempt under the sale for resale exemption. Whether the Comptroller used the proper calculation method for interest applied to tax overpayments.

Status: Answer filed.

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***Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003122 AG Case #: 062403712

Filed: 8/24/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$275,000.00	04/01/96 - 03/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services, purchases of wrapping and packaging supplies, installation labor, purchases for sale for resale, and temporary storage of tangible personal property.

Status: Answer filed.

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***Mars, Inc. v. Strayhorn, et al.***

Cause Number: GN401349

AG Case #: 041965336

Filed: 4/29/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$726,024.00	01/01/94 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from sales tax under the manufacturing exemption. Whether Plaintiff's purchases of installation labor are exempt as purchases of non-taxable stand-alone installation services.

Status: Discovery in progress. Trial passed by agreement.

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***Matoka, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-001217

AG Case #: 082505595

Filed: 4/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$171,963.00	04/01/2001 through 11/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Answer filed.

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***Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.***

Cause Number: GN404187

AG Case #: 052082260

Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,794,780.29	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether items purchased by Plaintiff to be exported outside of the U.S. by a freight consolidator and not invoiced individually are exempt from sales and use tax. Whether the Comptroller's auditing techniques can assess tax on transactions previously audited and non-assessed. Whether Plaintiff "purchased" or "rented" software, and whether services provided to implement the software are taxable. Whether services performed on tangible personal property provided by a third party are exempt from sales and use tax. Plaintiff claims violation of equal and uniform taxation, and due process. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***Minyard Food Stores, Inc. vs Compt., et al.***

Cause Number: D-1-GN-07-003882 AG Case #: 072481211

Filed: 11/8/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,221,250.86	08/01/95 - 10/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether sample was defective because of missing records and credit items. Whether assessments were made on non-taxable services. Whether utility and manufacturing exemptions applied to some items. Whether the statute of limitations was properly extended.

Status: Settlement discussions in progress.

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***Mitchell, Christia Parr v. Rylander, et al.***

Cause Number: GN201330

AG Case #: 021604541

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$160,870.48	01/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pro Se

Issue: Whether Plaintiff may recover a sales tax refund for taxes paid by a corporation controlled by her ex-husband when the liability was paid pursuant to orders of the court in which the divorce was granted.

Status: Inactive.

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***Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al.***

Cause Number: GN201344

AG Case #: 021607155

Filed: 5/1/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,600,000.00	09/01/92 - 11/30/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Bernal, Jr., Gilbert J.	Stahl, Bernal & Davies / Austin
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Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff claims that collection of the tax violates the Supremacy Clause as a tax on the U.S. government and that the Comptroller violated the constitutional requirements of equal protection and equal taxation by denying the refund claim. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Office Depot, Inc. et al. v. Combs, et al.***

Cause Number: D-1-GN-07-004220 AG Case #: 072484710

Filed: 12/7/2007

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
\$1,827,565.08	11/01/98 - 07/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether sales to unidentified customers were treated correctly. Whether tax was improperly assessed or paid on various transactions. Whether out of state items were treated correctly.

Status: Answer filed.

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***Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN503442

AG Case #: 052217601

Filed: 9/22/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,552,785.55	01/01/94 - 07/31/98
	01/01/94 - 12/31/95
	07/01/92 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether transactions for which customer identities are unavailable are taxable. Whether the Comptroller used the proper sampling procedure. Whether the proper error rate for assessed sales transactions with missing customer information was used. Plaintiff also claims violation of equal and uniform taxation, the Equal Rights Clause, the Equal Protection Clause, due course of law and Due Process Clause.

Status: Answer filed.

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***Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000041 AG Case #: 062269014

Filed: 1/5/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,552,785.55	01/01/94 - 07/31/98
	01/01/94 - 12/31/95
	07/01/92 - 12/31/93



Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether transactions for which customer identities are unavailable are taxable. Whether the Comptroller improperly extrapolated the error rate associated with tax-exempt copier lease payments over an under-valued population base.

Status: Answer filed.

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***Olarnpunsagoon, Suchon v. Combs, et al.***

Cause Number: D-1-GN-07-000134    AG Case #: 072436124

Filed: 1/18/2007

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$57,808.30	10/01/00 - 03/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Plaintiff claims the estimating method used by the Comptroller's office resulted in a significantly large amount of tax due to the State. Plaintiff claims if actual records were used for the audit little, if any, tax would be owed. Plaintiff also claims the methodology used did not allow credits.

Status: Jury trial set for 07/21/08. Passed by agreement.

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***Reynolds Metals Co. vs. Combs, et al.***

Cause Number: D-1-GN07003574    AG Case #: 072477284

Filed: 10/18/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$486,159.70	Feb. 1, 1990 through Feb. 28, 1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	

Issue: Whether ship unloaders qualify as rolling stock and exempt from sales tax. Whether replacement parts and services for the unloaders are exempt. Whether denying the exemption violates equal protection.

Status: Answer filed.

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***Reynolds Metals Company v. Strayhorn, et al.***

Cause Number: GN401468	AG Case #: 041970799	Filed: 5/7/2004
#03-07-00709-CV		

Sales Tax; Refund

Claim Amount	Reporting Period
\$227,094.25	03/01/94 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Sigel, Doug	

Issue: Whether conveyors and weigh-ometers are exempt as manufacturing equipment or taxable as intraplant transportation. Whether repair and replacement parts for the conveyors are exempt from sales tax as purchases of pollution control equipment used in manufacturing and purchases of environmental repairs. Whether ship unloaders qualify as rolling stock and exempt from sales tax. Plaintiff also claims violation of equal and uniform taxation and equal protection.

Status: Partial Summary Judgment granted for Comptroller on the rolling stock issue. Taxpayer dropped all other issues. Appeal filed by Plaintiff on 12/14/07. Appellant's brief

filed 02/04/08; Oral Argument requested. Appellee's brief filed 03/19/08; Oral Argument requested. Appellant's Reply brief filed 04/08/08.

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***Roadway Express, Inc. v. Rylander, et al.***

Cause Number: GN002831

AG Case #: 001357631

Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$713,686.05	04/01/88 - 05/31/92
\$206,053.87	04/01/88 - 05/31/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lochridge, Robert

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as "accessories." Alternatively, whether taxing 100% of the value of the equipment violates the Commerce Clause because of a lack of substantial nexus and of fair apportionment. Whether all tax was paid on Plaintiff's repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Trial setting passed. Discovery in progress.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004726 AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,027,105.00	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens & Associates / Austin

Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Answer filed.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004725 AG Case #: 072431158

Filed: 12/22/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$443,221.70	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
Seay, Michael B.	

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Answer filed.

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***Rockwell Collins, Inc. v. Rylander, et al.***

Cause Number: GN203339

AG Case #: 021676788

Filed: 9/13/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,028.39	01/01/97 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Gilliland, David H.	Clark, Thomas & Winters / Austin
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Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Answer filed.

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***Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al.***

Cause Number: GN202097	AG Case #: 021640651	Filed: 6/28/2002
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Sales Tax; Protest

Claim Amount	Reporting Period
\$45,059.74	08/01/97 - 07/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Peckham, William T.	Attorney at Law / Austin
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Issue: Whether Plaintiff is liable for tax on food sold from its convenience store area. Whether the Comptroller applied proper percentages for loss and waste.

Status: Case dismissed for want of prosecution 02/28/07.

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***San Antonio Spurs, L.L.C. v. Strayhorn, et al.***

Cause Number: GN403429	AG Case #: 042050401	Filed: 10/15/2004
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Sales Tax; Protest

Claim Amount	Reporting Period
\$913,435.03	06/01/97 - 06/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether suite rental fees are exempt from sales tax as non-taxable rentals or licenses for the use of real property.

Status: Motion to Retain filed 08/20/07; granted 01/08/08.

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***SC Kiosks, Inc. v. Strayhorn, et al.***

Cause Number: GN500795

AG Case #: 052126810

Filed: 3/15/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$146,909.55	November 2004 Filing Period
\$66,251.85	December 2004 Filing Period
\$59,268.75	January 2005 Filing Period

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption.

Status: Case settled. Agreed judgment signed 07/16/08.

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***Sharper Image Corporation v. Rylander, et al.***

Cause Number: GN203645

AG Case #: 021686779

Filed: 10/9/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$264,355.46	07/01/94 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eisenstein, Martin I.	Brann & Isaacson / Lewiston, ME
Beal, Kevin J.	

Bernal, Jr., Gilbert J.	Stahl, Bernal & Davies / Austin
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Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) Plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Settlement negotiation in progress.

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***Sharper Image Corporation v. Rylander, et al.***

Cause Number: GN203821

AG Case #: 021696851

Filed: 10/22/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$258,205.20	12/01/97 - 03/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eisenstein, Martin I.	Brann & Isaacson / Lewiston, ME
Beal, Kevin J.	

Bernal, Jr., Gilbert J.	Stahl, Bernal & Davies / Austin
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Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) Plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Case consolidated into Sharper Image Corporation v. Rylander, et al., Cause # GN203645 per court order signed 04/09/03.

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***Southern Plastics, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000047 AG Case #: 062270459  
#03-08-00149-CV

Filed: 1/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$4,872.78	11/01/99 - 10/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether Petitioner's waste from its manufacturing plant qualifies as industrial solid waste and thus exempt from sales tax when removed as industrial solid waste.

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment filed 08/23/07. Defendants' Special Exceptions filed 09/26/07. Plaintiff's Second Amended Original Petition filed 09/26/07. Defendants' Cross Motion for Summary Judgment filed 09/27/07. Summary Judgment hearing scheduled for 10/18/07. Defendant's Motion for Summary Judgment granted 10/18/07. Plaintiff's Motion for Summary Judgment denied 10/18/07. Plaintiff's Motion for Reconsideration and Rehearing on Motions for Summary Judgment filed 12/10/07. Rehearing on Motions for Summary Judgment held 01/09/08. Final Judgment granted for Defendants 01/30/08. Plaintiffs' Notice of Appeal filed 02/29/08. Appellant's Motion for Extension of Time to File Brief filed and granted 04/14/08. Appellant's brief filed 05/21/08. Appellee's brief filed 07/03/08; Oral Argument requested.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637 AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$747,733.01	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and use tax as tangible personal property under the sale for resale exemption.

Status: Rehearing on Motion for Summary Judgment 01/09/08. Judgment for Defendants signed 01/30/08.

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***Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.***

Cause Number: GN103390

AG Case #: 011509668

Filed: 10/15/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$188,477.57	01/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Mott, H. Christopher	Krafsur Gordon Mott / El Paso
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Issue: Whether Plaintiff owes tax on electricity used to freeze food items.

Status: Settlement analysis in review. Discovery in progress.

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***Southwestern Bell Telephone, L.P. v. Strayhorn, et al.***

Cause Number: GN402300

AG Case #: 041998360

Filed: 7/22/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$291,516,385.00	06/01/05 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Hagenswold, R. Eric  
Osterloh, Curtis J.

Issue: Whether equipment used in telecommunications is exempt from sales tax under the manufacturing and processing exemption. Whether payphones purchased by Plaintiff to perform taxable telecommunications services qualify for the sale for resale exemption. Whether electricity purchased and resold as an integral part of other tangible personal property and used to perform taxable telecommunications services is exempt from sales tax. Whether stand-alone installation labor provided directly to a customer by a vendor or by a third-party installer is taxable.

Status: Court sent Notice of Setting for DWOP on 08/24/07. Plaintiff filed Motion to Retain, Memorandum in Support of Motion to Retain and proposed Order Granting Motion to Retain on 08/15/07. Order Granting Motion to Retain signed 01/08/08. Scheduling order filed.

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***Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004500 AG Case #: 062428495  
#03-07-00638-CV

Filed: 12/1/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,917,047.67	10/01/03 - 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff owes use tax on printing charges for directories printed out-of-state but ultimately distributed within Texas. Plaintiff claims the directories were "manufactured" rather than "purchased" outside of Texas, resulting in the printing operations occurring outside of Texas and used and consumed outside of Texas.

Status: Defendant's Motion for Summary Judgment and Notice of Hearing filed 09/10/07. Plaintiff's reply filed 09/20/07. Motion for Summary Judgment hearing held 10/02/07. Defendant's Judgment granted 10/17/07. Plaintiff's Notice of Appeal filed 11/13/07. Clerk's record filed 12/13/07. Appellant's brief filed 01/11/08; Oral Argument requested. Appellee filed Motion for Extension of Time to File Brief 02/05/08; granted 02/06/08. Appellee's brief filed 02/25/08; Oral Argument requested. Appellant's Reply filed 03/17/08. Appellee's Motion to Postpone Oral argument filed and granted 05/20/08. Submission cancelled 05/20/08.

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***Spacenet Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002437 AG Case #: 062380332

Filed: 7/3/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$650,940.41	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff owes no tax because it accepted resale certificates in good faith.  
Whether all penalty and interest should be waived.

Status: Discovery in progress.

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***Stantrans Partners, L.P. v. Strayhorn, et al.***

Cause Number: GN502648

AG Case #: 052186624

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$326,813.49	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether purchases of tangible personal property for ultimate sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.  
Whether gas and electricity purchased and used to process tangible personal property for sale as tangible personal property are exempt from sales tax under the manufacturing and

processing exemption.

Status: Answer filed.

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***Stantrans Partners, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004583 AG Case #: 062430343

Filed: 12/11/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$273,088.45	07/01/99 - 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether purchases of tangible personal property for ultimate sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption. Whether gas and electricity purchased and used to process tangible personal property for sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.

Status: Answer filed.

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***Steamatic of Austin, Inc., et al. v. Rylander, et al.***

Cause Number: GN200631

AG Case #: 021567771

Filed: 2/25/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$103,335.27	04/01/91 - 04/30/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff is entitled to a tax refund for repairs to tangible personal property on the grounds that such repairs were for casualty losses exempt under the Comptroller's Rules 3.357 and 3.310. Whether the claim is barred by limitations. Whether the Comptroller improperly changed the rule on casualty losses.

Status: Motion for summary judgment filed. Response filed. Partial summary judgment on limitations granted for Plaintiff 04/07/04. Case dismissed for want of prosecution 02/28/07.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465

AG Case #: 041925850

Filed: 2/17/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$92,357.48	05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress. Hearing on Motion to Exclude set 11/07/06 passed. Waiting for Plaintiff to decide on use of expert witness.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.***

Cause Number: GN100633

AG Case #: 011420734

Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$196,492.74	01/01/94 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin  
Blume, James Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.***

Cause Number: GN302075 AG Case #: 031816119 Filed: 6/13/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$270,401.80	07/01/94 - 06/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Blume, James Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Target Corporation v. Strayhorn, et al.***

Cause Number: GN502440 AG Case #: 052184538 Filed: 7/14/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,242.98	02/01/96 - 07/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether charges for labor under separated contracts and charges under lump sum contracts constitute non-taxable new construction. Whether charges for assembly and installation of display items in retail stores are non-taxable third party installation services. Whether components purchased outside the state and used outside the state to construct other items, including assembly labor charges, are taxable. Whether installation charges for purchases of tangible personal property are non-taxable as separable charges.

Status: Summary Judgment hearing set for 08/13/08.

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***TDI-Halter, Inc. v. Rylander, et al.***

Cause Number: GN100339

AG Case #: 011409653

Filed: 2/1/2001

Sales Tax; Refund

Claim Amount	Reporting Period
\$475,000.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether conversion of drilling rigs to self-propelled, deep water rigs is manufacturing under the statute and Comptroller rules. Whether dredging is non-taxable maintenance of real property. Alternatively, whether interest should be waived.

Status: DWOP notice sent by court 03/29/05. Order retaining case entered 08/04/05. Discovery in progress. Scheduling order entered. Non-jury trial 09/02/08. Settlement negotiations pending.

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***Texaco Grand Prix of Houston, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002510 AG Case #: 062381686

Filed: 7/10/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$48,129.01	1998 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether rental furniture and similar items provided in hospitality suites are exempt under the sale for resale exemption. Whether additional parking space provided in a parking lot for motorcoaches is taxable as motor vehicle parking and storage service or exempt as real property.

Status: Settlement has been reached.

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***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount	Reporting Period
\$294,000.00	01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark OAG Taxation / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra-plant transportation.

Status: Inactive.

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***The Kroger Company v. Combs, et al.***

Cause Number: D-1-GN-07-000175 AG Case #: 072435787

Filed: 1/22/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,049,056.93	01/01/94 - 06/30/97



Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether paper and plastic bags, refrigeration units, refrigerant, freezers and other various supplies and equipment purchased by Plaintiff are exempt from sales tax under the manufacturing exemption. Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services. Whether purchases of services to restore and repair real property damaged in natural disasters, services to construct new improvements, and non-enumerated services are exempt from sales and use tax. Whether leased property donated for use by a charitable organization is exempt from sales and use tax.

Status: Answer filed.

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***Tree of Life, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002103    AG Case #: 062367701

Filed: 6/9/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$200,000.00	01/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                              OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                      Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the process causes a physical change to the products. Whether packing supplies and replacement parts of processing equipment qualify as manufacturing equipment and exempt from sales tax. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Tyler Holding Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004608 AG Case #: 062430350

Filed: 12/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$47,129.21	10/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether purchases of tangible personal property by Plaintiff's predecessor were exempt from sales and use tax under the manufacturing exemption. Whether charges of contractors for erecting, dismantling and moving scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Answer filed.

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***United Scaffolding, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002270 AG Case #: 062375514

Filed: 6/21/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$897,633.51	10/01/97 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
Villa, Richard D.	Hughes & Luce / Austin

Issue: Whether scaffolding services provided by Plaintiff are taxable rentals of tangible personal property in regard to certain lump sum contracts, or exempt as non-taxable services. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401174

AG Case #: 041954488

Filed: 4/14/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$975,000.00	07/01/99 - 07/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Discovery in progress.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501793

AG Case #: 052151891

Filed: 5/17/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$881,264.71	03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Discovery in progress.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504467

AG Case #: 062267356

Filed: 12/16/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$297,739.30	03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether security services provided to Plaintiff in connection with services to the federal government qualify for the sale for resale exemption. Whether tax on tangible personal property should be refunded pursuant to the Raytheon case. Whether electricity used to produce software qualifies for the manufacturing and processing exemption. Whether certain software maintenance is a non-taxable service.

Status: Answer filed.

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***Uretek U.S.A., Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003268 AG Case #: 062405964

Filed: 8/31/2006

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
\$35,436.95	07/01/02 - 10/31/05
\$21,939.96	01/01/99 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Smith, L. G. (Skip)	Clark, Thomas & Winters / Austin
Wethekam, Marilyn A.	Horwood Marcus & Berk Chartered / Chicago, IL

Issue: Whether Plaintiff is entitled to an exemption on drill bits because the bits are incorporated into realty for exempt organizations. Whether consumable supplies and equipment qualify as tangible personal property used in the performance of a contract to improve real property and, therefore, tax exempt. Whether tangible personal property purchased outside of Texas, temporarily stored in Texas, and then used in the performance of contracts located outside of Texas are tax exempt. Plaintiff seeks waiver of all penalty and interest.

Status: Discovery in progress.

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***USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002388 AG Case #: 062380266

Filed: 6/29/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$110,668.91	01/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff owes use tax on telecommunications equipment components shipped out-of-state by a vendor and manufactured into site base stations which are then shipped back into Texas.

Status: Cross-Motions for Summary Judgment filed by each party. Hearing held 07/16/08.

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***V.H. Salas & Associates, Inc. v. Comptroller***

Cause Number: GN403975

AG Case #: 042071365

Filed: 12/6/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$66,543.64	08/01/98 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark

OAG Taxation / Austin

*Opposing Counsel*

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Lopez, Diego A.

The Law Offices of Diego A. Lopez / San Antonio

Issue: Whether Plaintiff owes sales tax on purchased equipment used in the manufacturing of wood and metal products. Whether Plaintiff owes sales tax on electricity used to operate the equipment. Whether Plaintiff was denied due process of law and the right to equal protection of the law. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress.

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***Verizon Business Network Services, Inc. v. Compt. Et. Al.***

Cause Number: D-1-GN-07-004221 AG Case #: 072484389

Filed: 12/7/2007

Sales Tax; Refund

Claim Amount	Reporting Period
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\$20,179,336.77	01/01/96 - 03/31/02
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Settlement negotiations in progress.

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***Verizon North, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001295 AG Case #: 062309349

Filed: 4/13/2006

#03-08-00151-CV

Sales Tax; Refund

Claim Amount	Reporting Period
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\$1,116,225.00	06/01/96 - 02/29/00
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of software licenses qualify as tangible personal property. Whether some portion of the software license not stored, used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale is exempt from sales tax.

Status: Trial court rendered judgment for the state on 12/13/07. Plaintiff filed Notice of Appeal 03/06/08. Appellant's brief filed 05/27/08. Appellee's Motion for Extension of Time to File Brief filed 06/12/08; granted 06/13/08. Supplemental Clerks' record filed 06/23/08. Appellees' brief due 08/11/08.

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***Wal-Mart Stores, Inc. vs Susan Combs, Compt., et al.***

Cause Number: D-1-GN-07-003887 AG Case #: 072481203

Filed: 11/9/2007

Sales Tax; Protest & Refund

Claim Amount      Reporting Period

\$7,460,665.48      04/01/89 - 01/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller used improper sampling methods. Whether the Comptroller should be estopped from making certain assessments because of delay in completing the audit. Whether Plaintiff should receive a credit or refund for a variety of transactions.

Status: Answer filed.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$63,720.38	04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Hagenswold, R. Eric	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***West Texas Pizza, Limited Partnership v. Sharp, et al.***

Cause Number: 96-11751

AG Case #: 96611633

Filed: 9/27/1996

Sales Tax; Protest

Claim Amount	Reporting Period
\$35,247.00	06/01/88 - 06/30/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Rothfelder, Richard L.	Rothfelder & Falick, L.L.P. / Houston
Magee, Milissa M.	

Issue: Whether prizes obtained by collecting tickets from amusement machines in a restaurant are "purchased" by the customer as part of the price of the food.

Status: Inactive.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767

AG Case #: 041904608

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$415,185.61	10/01/93 - 12/31/97



Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987 AG Case #: 062398086

Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$219,297.54      01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Williams, Duane Everett v. Comptroller***

Cause Number: GN304667

AG Case #: 031899222

Filed: 12/10/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$50,000.00	2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cooper, Michael R.	Attorney at Law / Salado
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Issue: Whether Plaintiff's civil rights were violated by the Comptroller's audit and whether the audit assessment should be set aside for lack of substantial evidence.

Status: Answer filed.

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***Wireless Now, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07001038 AG Case #: 072447469

Filed: 4/6/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$29,431.70	09/01/01 - 08/31/05

Counsel Associated With This Case:

*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray

Sigel, Doug

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption. Index: Sale for Resale; Sub-Index: telecommunications equipment.

Status: Answer filed.

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***World Fitness Centers, Inc. v. Rylander, et al.***

Cause Number: GN201795

AG Case #: 021626239

Filed: 5/30/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$273,005.56	09/01/94 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                                  Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether Plaintiff owes sales tax on the discount and reserve amounts of its factored contracts when Plaintiff is a cash-basis taxpayer.

Status: Case dismissed for want of prosecution 02/28/07.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260    AG Case #: 062425574

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                              OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                                  Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Zale Delaware, Inc. v. Rylander, et al.***

Cause Number: GN202030

AG Case #: 021640669

Filed: 6/24/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$333,602.57	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is liable for tax on items temporarily stored in Texas. Whether tax on services purchased by Plaintiff should be reduced to reflect the out-of-state benefit of those services. Whether Plaintiff should get a refund or credit for tax paid on inventory. Whether the Comptroller should be barred from off-setting debts in the period between the filing of Plaintiff's bankruptcy petition and the confirmation of its reorganization plan.

Status: Discovery and settlement negotiations in progress. Case consolidated with *Zale Delaware, Inc. v. Strayhorn, et al.*, Cause #GN301725, per court order signed 12/12/07.

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***Zale Delaware, Inc. v. Strayhorn, et al.***

Cause Number: GN301725

AG Case #: 031806045

Filed: 5/27/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,170,404.64	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to exemption on items of inventory temporarily stored in-state. Whether tax was improperly assessed on services performed outside the state. Whether installation services on counters and software were readily separable from taxable tangible property. Whether the Comptroller should be enjoined from taking offsets pursuant to Plaintiff's bankruptcy plea.

Status: Case consolidated into *Zale Delaware, Inc. v. Rylander, et al.*, Cause #GN202030. Order to consolidate signed 12/12/07.

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## Insurance Tax

***Allstate County Mutual Insurance Company; Allstate Insurance Company; Allstate Indemnity Company; Allstate Texas Lloyds; and Allstate Property and Casualty Insurance Company v. Strayhorn, et al.***

Cause Number: GN300968

AG Case #: 031778947

Filed: 3/26/2003

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$174,386.15	1995 - 1998
\$10,529.48	1995 - 1998
\$4,013.24	1995 - 1998
\$11,858.40	1995 - 1998
\$7,306.09	1995 - 1998
\$208,093.27	Total of All Above

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Moore, Steven D.

Issue: Whether Plaintiffs owe gross premiums tax on defaulted auto insurance premiums that are not received.

Status: Discovery in progress. Plaintiffs' Third Amended Petition filed 10/03/07. Encompass Home and Auto Insurance Company's Plea in Intervention filed 10/03/07. Allstate Fire and Casualty Insurance Company's Plea in Intervention filed 10/03/07. Plaintiffs' Motion for Summary Judgment filed 01/28/08. Hearing on Plaintiff's MSJ scheduled for 10/16/08 at 9:00 a.m.

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***AXA Equitable Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501095

AG Case #: 052135712

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$57,166.00	2004
\$28,583.00	2005
\$849.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Werkenthin, Fred B.	Jackson Walker, L.L.P. / Austin
Small, Edward C.	
Moore, Steven D.	
Fitzgerald, Pat	

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Fireman's Fund Insurance Company of Ohio v. Rylander, et al.***

Cause Number: GN101899

AG Case #: 011464476

Filed: 6/20/2001

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$439,074.12	1992 - 1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Alexander, Ricky	Cantey Hanger LLP / Austin
Welborn, Amy	

Issue: Whether Plaintiff, an authorized surplus lines insurer, is liable for unauthorized insurance premiums tax. Whether the Comptroller lacks authority to determine that Plaintiff is an unauthorized insurer, and whether the Texas Department of Insurance is required to make that determination. Whether the Comptroller engaged in selective and improper enforcement.

Whether the assessment violates Due Process and the McCarran-Ferguson Act. Alternatively, whether penalty should be waived. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Case was to be dismissed by court unless retained. Plaintiff filed unopposed motion to retain; granted. Inactive until Lexington Insurance is decided. Trial set 08/25/08. Plaintiff will provide documents to seek agreed judgment.

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***First American Title Ins. Co. vs Compt., et al.***

Cause Number: D-1-GN-08-001740 AG Case #: 082511932

Filed: 5/21/2008

Retaliatory Tax; Protest

Claim Amount	Reporting Period
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\$1,575,269.35	2007
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Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller improperly calculated retaliatory tax based on the split premium between insurer and agent. Whether the Comptroller's policy is invalid for failure to follow APA rule adoption procedures.

Status: Answer filed.

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***First American Title Insurance Company v. Combs, et al.***

Cause Number: GN301692

AG Case #: 031806011

Filed: 5/23/2003

#03-04-00342-CV

#05-0541

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
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\$1,432,580.76	1998 - 2002
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Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA. Plaintiff also seeks attorneys’ fees.

Status: State's Motion for Summary Judgment granted 05/18/04; Plaintiff's denied. Notice of Appeal filed 06/17/04. Motion to consolidate cases granted 07/29/04 (Old Republic National Title Insurance Co. v. Strayhorn, et al., Cause #GN401630). Appellants' brief filed 08/30/04. Appellees' brief filed 10/26/04. Appellants' reply brief filed 11/15/04. Submitted on Oral Argument 01/19/05. Appellees' supplemental brief filed 02/01/05. Appellants' supplemental brief filed 02/15/05. Opinion issued 06/03/05 affirming trial court's judgment in favor of Comptroller. Petition for Review filed in the Tx. Supreme Court 07/14/05. Respondent filed Waiver to Respond 07/28/05. Case forwarded to Court 08/02/05. Court requested response 08/29/05; response filed 09/28/05. Petitioner's reply filed 10/13/05. Briefing on the merits requested 12/19/05. Petitioners' brief filed 02/17/06. Respondents' brief filed 03/09/06. Petitioners' reply brief filed 03/24/06. Amicus Curiae brief received by Court 04/11/06. Petition for Review denied 09/01/06. Motion for Rehearing filed 10/16/06. Amicus Curiae brief received by Court 10/16/06. Response to Motion for Rehearing filed by Respondent 12/08/06. Petitioner's reply filed 12/22/06. Motion for Rehearing granted 03/09/07. Motion to participate pro hac vice filed by Petitioner 03/29/07; granted 04/04/07. Submitted on Oral Argument 04/11/07. Post-submission brief filed by Respondent 04/19/07. Response to Petition for Review filed by Petitioner 04/27/07. Response to Amicus Curiae brief filed by Petitioner 04/27/07. Post-submission brief filed by Respondent 05/02/07. Response filed by Petitioner 05/07/07. Motion for Leave to file brief filed 05/07/07; granted 05/10/07. Opinion 5-4 issued by the Supreme Court 05/16/08. The Court sustained the title insurance retaliatory tax against Petitioners’ claim that it violated Equal Protection and equal and uniform taxation guarantees. The Court affirmed summary judgment in the State’s favor. Justice Hecht and 3 justices dissented in a written opinion. Petitioner filed and was granted an extension of time to file a motion for rehearing on 07/02/08. Petitioners' Motion for Rehearing of Cause filed 07/02/08.

***First American Title Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-07-001503 AG Case #: 072452949

Filed: 5/22/2007

#03-04-00342-CV

#05-0541

Retaliatory Tax; Protest

Claim Amount	Reporting Period
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\$1,219,341.64	2006
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Counsel Associated With This Case:

*Assistant Attorney General*

Monzingo, Christine

OAG Taxation / Austin



*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Answer filed.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN401631

AG Case #: 041976440

Filed: 5/21/2004

Retaliatory Tax; Protest

Claim Amount      Reporting Period

\$1,490,029.00      2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Answer filed. Pending resolution of companion First American case, Cause # 05-0541.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN501795

AG Case #: 052153855

Filed: 5/17/2005

Retaliatory Tax; Protest

Claim Amount      Reporting Period

\$2,140,952.88      2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Answer filed. Pending resolution of companion First American case, Cause #05-0541.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001853 AG Case #: 062359823

Filed: 5/24/2006

Retaliatory Tax; Protest

Claim Amount	Reporting Period
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\$1,020,476.26	2005
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Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Answer filed. Pending resolution of companion First American case, Cause #05-0541.

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***Metropolitan Life Insurance Company, et al. v. Combs, et al.***

Cause Number: 484,745

AG Case #: 90304512

Filed: 5/24/1990

#03-06-00446-CV

Gross Premium Tax; Protest

Claim Amount	Reporting Period
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\$10,817,043.00	1989 - 2003
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Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

Opposing Counsel

Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Moore, Steven D.

Harrison, Breck

Rogers, Tom

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: Ninth Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final Judgment entered on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs made settlement offer on remainder of case. Motion for Summary Judgment hearing held 02/14/06. Judgment granted for Plaintiffs 06/29/06. State filed Notice of Appeal 07/26/06; docketing statement filed 08/01/06. Clerk's Record filed 08/24/06. Appellants' brief filed 09/25/06. Appellees' brief filed 10/25/06. Appellants' reply brief filed 11/14/06. Submitted on Oral Argument 02/14/07.

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***New York Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501094

AG Case #: 052130697

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$105,822.00	2004
\$52,911.00	2005
\$1,572.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene

OAG Taxation / Austin

Opposing Counsel

Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Small, Edward C.

Moore, Steven D.

Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v.

***Old Republic National Title Ins. Co. vs. Compt.***

Cause Number: D-1-GN-08-001741 AG Case #: 082510926

Filed: 5/21/2008

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$283,522.56	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Answer filed.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN401630

AG Case #: 041976416

Filed: 5/21/2004

Retaliatory Tax; Refund

Claim Amount	Reporting Period
\$289,403.85	2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA. Plaintiff also seeks attorneys’ fees.

Status: Answer filed. Pending resolution of First American Title Insurance Company v.

***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN501794

AG Case #: 052151883

Filed: 5/17/2005

Retaliatory Tax; Protest

Claim Amount      Reporting Period

\$234,970.95      2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Answer filed. Pending resolution of First American Title Insurance Company v. Combs, et al., Cause#05-0541.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN503918

AG Case #: 052240827

Filed: 10/28/2005

Retaliatory Tax; Protest

Claim Amount      Reporting Period

\$247,928.29      01/01/01 - 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Answer filed. Pending resolution of First American Title Insurance Company v. Combs, et al., Cause#05-0541.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001854 AG Case #: 062359823

Filed: 5/24/2006

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$255,144.50	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Answer filed. Pending resolution of First American Title Insurance Company v. Combs, et al., Cause#05-0541.

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***Old Republic Title Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-07-001502 AG Case #: 072452923

Filed: 5/22/2007

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$268,130.28	2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy

change violated Due Process and the APA.

Status: Answer filed. Pending resolution of First American Title Insurance Company v. Combs, et al., Cause#05-0541.

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***Old Republic Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN301693

AG Case #: 031806029

Filed: 5/23/2003

#03-04-00347-CV

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
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\$219,626.40	2002
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Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA. Plaintiff also seeks attorneys’ fees.

Status: The State’s Motion for Summary Judgment granted 05/17/04 and Plaintiff’s Motion denied. Notice of Appeal filed 06/17/04; dismissed 07/29/04 due to Motion for Consolidation. Case consolidated into First American Title Insurance Co. v. Strayhorn, et al., Cause #GN301692, #03-04-00342-CV 07/29/04. Pending resolution of companion First American case, Cause #05-0541.

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***Prudential Insurance Company, The v. Strayhorn, et al.***

Cause Number: GN501093

AG Case #: 052137189

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
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\$230,578.00	2004
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\$115,289.00	2005
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\$3,426.00	2004 (Maintenance Tax)
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Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Small, Edward C.

Moore, Steven D.

Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***STP Nuclear Operating Co. v. Combs***

Cause Number: D-1-GN-07-002357 AG Case #: 072462294

Filed: 7/30/2007

Insurance Premium Tax; Protest

Claim Amount Reporting Period

\$172,397.04 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the violates equal protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Answer filed 08/09/07. Inactive. Pending resolution of companion STP case.

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***STP Nuclear Operating Company v. Combs, et al.***

Cause Number: GN302053

AG Case #: 031808371

Filed: 6/11/2003

#03-06-00428-CV

#07-0482

Insurance Premium Tax; Protest



Claim Amount	Reporting Period
\$115,287.80	2002
\$125,848.14	2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Newton, Howard P.	Cox Smith Matthews Inc. / San Antonio
Ruiz, Rene D.	

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal protection or equal taxation.

Status: Due to order consolidating cases entered 06/27/05, STP Nuclear Operating Co. v. Strayhorn, et al., Cause No. GN501910, consolidated into this case. Hearing on cross-motions for summary judgment held 04/17/06. Judgment granted for Plaintiff on grounds of McCarran-Ferguson Act and for Defendants on issue of pre-emption. Judgment signed 06/20/06. State filed Notice of Appeal 07/18/06; docketing statement filed 07/21/06. Clerk's Record filed 08/30/06. Appellants' brief filed 10/20/06. Appellee's brief filed 12/04/06. Submitted on Oral Argument 01/10/07. Letter brief filed by State 02/06/07. Letter brief filed by Appellee 02/15/07. Letter brief filed by State 02/27/06. Opinion issued 05/01/07 reversing the trial court's judgment and rendering judgment in favor of the Comptroller. Petition for Review filed in the Texas Supreme Court 06/15/07. Waiver of Response filed 07/06/07. Court requested response; filed 09/07/07. Briefing on the Merits requested 12/17/07. Case record filed 12/20/07. Petitioner's Briefing on the Merits due 01/16/08. Respondents' Briefing on the Merits due 02/05/08. Petitioner's Motion for Extension of Time to File Brief filed 01/15/08; granted 01/16/08. Petitioner's Brief filed 01/30/08. Respondents' Brief on the Merits filed 03/11/08. Petitioners' Reply Brief filed 03/26/08.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: GN501910

AG Case #: 052155728

Filed: 5/27/2005

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
\$154,235.67	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

Opposing Counsel

Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal and uniform protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Order to consolidate cases entered 06/27/05. This case consolidated into STP Nuclear Operating Co. v. Strayhorn, et al., Cause No. GN302053.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: GN503375

AG Case #: 052214509

Filed: 9/19/2005

Insurance Premium Tax; Refund

Claim Amount      Reporting Period

\$529,071.60      1998 - 2001

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene

OAG Taxation / Austin

Opposing Counsel

Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal and uniform protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Inactive. Pending resolution of companion STP case.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002569      AG Case #: 062382932

Filed: 7/14/2006

Insurance Premium Tax; Protest

Claim Amount      Reporting Period

\$166,950.77      2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Figueroa, Rodrigo J.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal and uniform protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Answer filed. Inactive. Pending resolution of companion STP case, Cause#03-06-00428-CV.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271

AG Case #: 991226739

Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
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\$416,462.73	1993 - 1997
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\$214,893.74	1993 - 1997
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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White, Raymond E.

Akin, Gump, Strauss, Hauer & Feld / Austin

Micciche, Daniel

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Settlement negotiations in progress.

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## Other Taxes

### ***A & D Interests, Inc., dba Heartbreakers v. Compt., et al.***

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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### ***Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al.***

Cause Number: GN203255

AG Case #: 021670484

Filed: 9/9/2002

Inheritance Tax; Protest

Claim Amount	Reporting Period
\$161,956.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether the IRS erred in increasing the value of the estate's assets and disallowing expenses and gifts.

Status: Plaintiff filed unopposed motion to retain 03/23/07; granted 07/10/07.

***Barney Holland Oil Co. vs Compt., et al.***

Cause Number: D-1-GN-08-000250 AG Case #: 082492216

Filed: 1/22/2008

Fuels Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$104,000.00	01/01/04-02/28/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Hudman, Douglas R.

Issue: Whether fuel access cards may be treated as credit cards for purposes of the bad debt deduction for fuels taxes.

Status: Summary Judgment hearing set for 06/26/08. Plea to the Jurisdiction filed 06/06/08. Plea to the Jurisdiction and Order of Dismissal granted 06/26/08.

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***Beadles, Joe Haven v. Strayhorn***

Cause Number: D-1-GN-06-002682 AG Case #: 062385901

Filed: 7/24/2006

Diesel Fuel Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$697,793.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

Issue: Plaintiff claims that the State issued a diesel fuel bonded suppliers' permit to Plaintiff without Plaintiff's knowledge, allowing diesel fuel taxes to be assessed against Plaintiff. Plaintiff claims he never purchased or sold diesel fuel. Plaintiff claims the State previously collected the taxes in question from subsidiaries who sold diesel fuel through truck stops. Plaintiff claims these subsidiaries bought the diesel fuel from an oil company which the State, through an "agreement with the oil company," exempted from paying taxes. Plaintiff requests that all diesel fuel taxes assessed be dismissed.

Status: Answer filed.

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***Bryan ISD v. Strayhorn***

Cause Number: D-1-GV-06-001442 AG Case #: 062389937

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A and B property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A, B and L1 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***Charles Dawson, et al. vs. Comptroller, et al.***

Cause Number: CV12,011

AG Case #: 072463946

Filed: 8/7/2007

Property Tax; Protest

Claim Amount	Reporting Period
\$849,870.00	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Perkins-Mouton, Trina	Attorney at Law / Houston
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Issue: Whether Plaintiff's property tax assessment was excessive

Status: Answer and Plea to the Jurisdiction filed on 08/30/07 on behalf of the Comptroller.

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***Culberson County-Allamoore ISD v. Strayhorn***

Cause Number: D-1-GV-06-001443 AG Case #: 062390018

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A, C and D3 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A, C and D3 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Discovery in progress.

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***D. Houston, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002483 AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$482,440.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Monshaugen, Ronald A.	Monshaugen & Van Huff, P.C. / Houston
Van Huff, Albert T.	

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Daingerfield-Lone Star ISD v. Strayhorn***

Cause Number: D-1-GV-06-001444 AG Case #: 062390034

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005



Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A and F1 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A and F1 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector***

Cause Number: 30861

AG Case #: 072457880

Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$180.00      2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Clevenger, Ty

Attorney at Law / Bryan

Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Answer filed. Plaintiff will transfer to Travis County.

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***El Paso Natural Gas Company v. Sharp***

Cause Number: 91-6309

AG Case #: 9178237

Filed: 5/6/1991

Gas Production Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$3,054,480.60	01/01/87 - 12/31/87

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Comptroller should have granted Plaintiff a hearing on penalty waiver and related issues.

Status: State's Plea in Abatement granted pending outcome of administrative hearing on audit liability. Negotiations pending.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN501395

AG Case #: 052141975

Filed: 4/25/2005

Gas Production Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$10,517.30	01/01/87 - 12/31/87
	01/01/88 - 12/31/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray Sigel, Doug Dashiell, Doug	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for tax on gas purchases as a producer or exempt as a purchaser. Whether Plaintiff is exempt from paying severance taxes as an interstate natural gas pipeline company. Plaintiff claims violation of the Due Process, Commerce, and Supremacy Clauses, and equal and uniform taxation. Plaintiff requests that the assessed penalty and interest be waived, and seeks attorneys' fees.

Status: Order granting Motion to Consolidated Cause Nos.GN502628, GN502815, GN503965 into this case, Cause #GN501395 signed 12/16/05. Settlement reached.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN502628

AG Case #: 052186640

Filed: 7/28/2005

Gas Production Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$41,492.78	01/01/87 - 12/31/87
\$31,595.18	01/01/87 - 12/31/87 (penalty)
\$87,955.50	01/01/87 - 12/31/87 (interest)
\$25,231.65	01/01/88 - 12/31/88
\$44,138.50	01/01/88 - 12/31/88 (interest)

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Dashiell, Doug

Issue: Whether Order 94 payments are exempt from tax. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff also claims violation of equal and uniform taxation. Plaintiff seeks attorneys' fees, and waiver of penalties and interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN502815

AG Case #: 052195583

Filed: 8/10/2005

Gas Production Tax; Protest

Claim Amount	Reporting Period
\$2,217,939.19	12/01/82 - 12/31/86
	01/01/89 - 12/31/90

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	
Dashiell, Doug	

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims that taxes assessed by the defendant is "double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States, and violation of the Commerce Clause and Supremacy Clause. Plaintiff also claims violation of equal and uniform taxation. Plaintiff seeks attorneys' fees and waiver of interest assessed. Plaintiff also requests disclosure of certain information and material.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN503965

AG Case #: 052243847

Filed: 11/2/2005

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$1,814,098.80	12/01/82 - 12/31/86
\$1,958,296.59	12/01/82 - 12/31/86 (interest)
\$32,615.00	01/01/89 - 12/31/90
\$37,401.27	01/01/89 - 12/31/90 (interest)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug  
Dashiell, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of equal and uniform taxation. Plaintiff claims that taxes assessed by the defendant is "double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff seeks attorneys' fees and waiver of interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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***Fort Worth's PR's, Inc. v. Rylander, et al.***

Cause Number: GN200711

AG Case #: 021573480

Filed: 3/4/2002

Mixed Beverage Gross Receipts Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$36,177.36	03/01/99 - 06/30/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Gamboa, John L.	Gamboa & White / Fort Worth
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Issue: Whether the Comptroller used a non-representative sample to determine Plaintiff's tax liability. Whether depletion and error rates were calculated correctly.

Status: Case settled. Agreed Judgment signed 06/18/08.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828 AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$20,409.70	09/01/02 through 11/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Answer filed.

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***John P. Bellam, dba Showgirl v. Compt., et al.***

Cause Number: D-1-GN-08-002491 AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$8,430.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***JP Morgan Chase Bank, N.A. v. Combs, et al.***

Cause Number: D-1-GN-07-002158 AG Case #: 072459811

Filed: 7/12/2007

Cigarette and Tobacco Tax; Interpleader

Claim Amount	Reporting Period
\$528,756.00	

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Kilpatrick, Brian A. Jackson Walker, L.L.P. / Dallas

Issue: Who owns the funds held by JP Morgan Chase Bank as an innocent stakeholder after payment was stopped on a purchase of cigarettes and tobacco products.

Status: Initial settlement proposal pending.

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***Kendrick Oil Company v. Combs, et al.***

Cause Number: D-1-GN-07-001031 AG Case #: 072445638

Filed: 4/5/2007

Fuels Tax; Refund

Claim Amount	Reporting Period
	01/01/99 - 07/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H. Grissom & Thompson / Austin  
Thompson, III, William W.

Issue: Whether motor fuel taxes should be assessed on all tax-free diesel fuel sold by Plaintiff during the audit period or just those gallons exceeding the gallonage limits prescribed in Section 153.205(f) of the Tax Code. Plaintiff also claims the Comptroller improperly assessed diesel fuel taxes for sales allegedly not made in conformance with Sections 153.205 and 162.206 of the Tax Code.

Status: Answer filed.

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***Mabank ISD v. Comptroller***

Cause Number: GV503360

AG Case #: 052185741

Filed: 7/19/2005

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk                      McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Henderson County Appraisal District filed a Petition of Intervention and for Injunctive Relief on 12/20/07.

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***Malakoff ISD v. Comptroller***

Cause Number: GV503359

AG Case #: 052185758

Filed: 7/19/2005

Property Tax; Administrative Appeal

Claim Amount      Reporting Period

\$0.00      2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk                      McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Henderson County Appraisal District filed a Petition of Intervention and for Injunctive Relief on 12/20/07.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.***

Cause Number: 92-16485

AG Case #: 92190294

Filed: 12/3/1992

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount      Reporting Period

\$0.00      N/A



Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Mattox, Jim Attorney at Law / Paris  
Lasley, Lowell  
Mosher, Michael D.

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Inactive.

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***Mulligan's North Bar & Grill, LLC vs. Compt., et al.***

Cause Number: D-1-GN-08-001093 AG Case #: 082503913

Filed: 4/2/2008

Mixed Beverage Gross Receipts Tax; Administrative Appeal

Claim Amount	Reporting Period
\$51,847.61	July 2001 - March 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Davis, Mark T. El Paso

Issue: Whether price and volume should be adjusted. Whether inventory should be removed from audit schedules. Whether credit for spills should be allowed. Plaintiff seeks de novo review under the APA.

Status: Answer filed.

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***Nextel of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN501852

AG Case #: 052154796

Filed: 5/23/2005

Telecommunications Infrastructure Fund (TIF) Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$2,113,301.35	01/01/99 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

Maloney, Natalie A.

OAG Taxation / Austin

### *Opposing Counsel*

Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether receipts for equipment sold to customers and listed separately on invoices are subject to an additional TIF assessment as taxable telecommunications receipts. Whether TIF charges which Plaintiff passed on and collected from its customers are allowable reimbursements as TIF assessment. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

*Phenomenom v. Strayhorn, et al.*

Cause Number: D-1-GN-06-000658 AG Case #: 062295472

Filed: 2/23/2006

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
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\$85,000.00	10/01/99 - 04/30/01
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Counsel Associated With This Case:

*Assistant Attorney General*

Masters, Paul H.

OAG Taxation / Austin

### *Opposing Counsel*

Hopkins, Mark D.

Savrick, Schumann, Johnson, McGarr, Kaminski  
& Shirley / Austin

Issue: Whether the sampling procedure used by the Comptroller was flawed, causing an incorrect tax assessment. Plaintiff claims Tax Code §112.108 is unconstitutional. Plaintiff seeks waiver of all penalty and interest, and seeks declaratory relief and attorneys' fees.

Status: Inactive.

*Point Isabel ISD v. Texas Comptroller of Public Accounts*

Cause Number: D-1-GN-06-002641 AG Case #: 062384979

Filed: 7/21/2006

## Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Hargrove, Judith A.	Hargrove & Evans / Austin
Evans, Jr., James R.	

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Category A. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***Preston Motors by George L. Preston, Owner v. Sharp, et al.***

Cause Number: 91-11987

AG Case #: 91133170

Filed: 8/26/1991

Motor Vehicle Tax; Protest

Claim Amount	Reporting Period
\$21,796.00	12/01/86 - 09/30/89

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Pro Se

Issue: Whether motor vehicle tax should fall on dealer/seller rather than the purchaser under §152.044. Related constitutional issues.

Status: Inactive.

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***Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.***

Cause Number: GN204124

AG Case #: 021705900

Filed: 11/14/2002

Fuels Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$115,000.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.

Grissom & Thompson / Austin

Issue: Whether fuels tax is actually owed by an unrelated company. Whether the Comptroller abused its discretion and violated Plaintiff's constitutional rights. Plaintiff seeks injunctive and declaratory relief.

Status: Inactive.

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***Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504104

AG Case #: 052245941

Filed: 11/15/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$208,428.70	05/01/02 - 05/31/02 (Diesel)
	01/01/02 - 04/30/02 (Gasoline)
	03/01/02 - 04/30/02 (Diesel)
	05/01/02 - 05/31/02 (Gasoline)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.

Grissom & Thompson / Austin

Thompson, III, William W.

Issue: Whether Plaintiff acquired a business and its assets by filing a sales tax application with the Comptroller. Whether such acquisition was a fraudulent transfer. Whether Plaintiff owes fuel taxes under successor liability.

Status: Discovery in progress.

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***San Felipe-Del Rio CISD v. Strayhorn***

Cause Number: D-1-GV-06-001446

AG Case #: 062390042

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Category A property. Whether the Comptroller erred in its procedures and methods used to properly value Category A property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***SSD Enterprises, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002301 AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,485.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.***

Cause Number: GN503318

AG Case #: 052216702

Filed: 9/14/2005

Inheritance Tax; Protest

Claim Amount	Reporting Period
\$1,293,469.96	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Wheat, David                      Thompson & Knight, L.L.P. / Dallas

Hill, Frank                      Thompson & Knight, L.L.P. / Austin

Issue: Whether Plaintiff's partnership interest located out-of-state is intangible personal property taxable in Texas. Plaintiff claims double taxation.

Status: Discovery in progress.

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***Texas Entertainment, Inc., et al. v. Combs, et al.***

Cause Number: D-1-GN-07-004179    AG Case #: 072480643

Filed: 12/7/2007

#03-08-00213-CV

#08-0341

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period

2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine              OAG Taxation / Austin

*Opposing Counsel*

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Whitehead, G. Stewart              Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief due 08/11/08.

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***Texas Richmond Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount Reporting Period

\$102,535.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Texas RSA 15B2 Limited Partnership v. Strayhorn, et al.***

Cause Number: GN403954

AG Case #: 042073783

Filed: 12/3/2004

Telecommunications Infrastructure Fund (TIF) Tax; Protest

Claim Amount Reporting Period

\$293,223.67 02/01/99 - 10/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether TIF charges which Plaintiff passed on and collected from its customers are allowable reimbursements as TIF assessment. Whether Plaintiff is liable for "interest on the amount collected" or "accrued" interest on the amount collected.

Status: Case settled. Agreed Judgment signed

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***The Men's Club Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002439 AG Case #: 082519091

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$60,890.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***TPI Petroleum, Inc. v. Strayhorn, et al.***

Cause Number: GN502629

AG Case #: 052186657

Filed: 7/28/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$528,639.00	12/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff is entitled to a refund of diesel fuel tax paid on diesel fuel lost by drive-offs, a refund of gasoline tax and diesel fuel tax based on bad debt deductions, and a credit for motor fuel tax paid on sales of reefer fuel.

Status: Discovery in progress.

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***Vinson Oil Distribution v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003262

AG Case #: 062405956

Filed: 8/31/2006

Fuels Tax; Protest



Claim Amount	Reporting Period
\$40,711.92	(Diesel)
\$1,861.38	(Gasoline)
	12/01-31/01
	12/01-31/02
	12/01-31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to a refund of gasoline tax and diesel fuel tax based on bad debt deductions resulting from proprietary card usage. Plaintiff claims violation of due process, equal protection and equal and uniform taxation.

Status: Answer filed.

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## Closed Cases

### ***Alcoa, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004268 AG Case #: 062426663

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$767,652.06	04/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether parts, equipment and repair services that Plaintiff purchased for draglines used in its coal mining operations are exempt from sales tax under the manufacturing exemption.

Status: Case Non-suited on 11/07/07.

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### ***Amerada Hess Corporation v. Strayhorn, et al.***

Cause Number: GN402614

AG Case #: 042005314

Filed: 8/13/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$44,500.00	01/01/90 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether submersible pumps, motors, separators, couplings and related down-hole equipment are exempt from sales tax under the manufacturing exemption. Whether certain

benefits of a membership fee cause the fee to be taxable.

Status: Answer filed.

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***American International Specialty Lines Insurance Company v. Rylander, et al.***

Cause Number: GN002666

AG Case #: 001351998

Filed: 9/8/2000

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$362,975.97      1992-1995

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Hollingsworth, Cynthia

Gardere Wynne & Sewell / Dallas

Frisbie, Jr., Curtis L.

Gordon, Randy D.

Joyner, Samuel E.

Issue: Whether an authorized surplus lines insurer is required to pay unauthorized insurance tax when the Comptroller is unable to verify payment of tax by the agent. Whether the Comptroller wrongfully relied on another hearings decision as precedent. Plaintiff also seeks injunctive and declaratory relief and attorneys' fees.

Status: Case consolidated into Lexington Insurance Company and Landmark Insurance Company v. Rylander, et al., Cause #GN100569.

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***Bell Helicopter Textron, Inc. v. Rylander, et al.***

Cause Number: GN200525

AG Case #: 021567755

Filed: 2/15/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$7,280,079.00      01/01/90 - 06/30/93

07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Bernal, Jr., Gilbert J.

Stahl, Bernal & Davies / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees and a declaration that the Comptroller disregarded controlling federal law, violated equal protection or imposed tax on the U.S. government.

Status: Case settled 12/07/07.

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***Bell Helicopter Textron, Inc. v. Strayhorn, et al.***

Cause Number: GN204437

AG Case #: 041927062

Filed: 12/11/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$3,000,000.00	07/01/97 - 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Bernal, Jr., Gilbert J.

Stahl, Bernal & Davies / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees and a declaration that the Comptroller disregarded controlling federal law, violated equal protection or imposed tax on the U.S. government. Plaintiff also seeks recovery of attorneys' fees.

Status: Case settled 12/07/07.

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***Bonart, Richard C., DVM v. Strayhorn, et al.***

Cause Number: GN400552

AG Case #: 041928532

Filed: 2/20/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$50.00	01/01/02 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

Issue: Whether microchips implanted in animals are exempt as health care supplies and as a therapeutic appliance or device. Plaintiff also claims a denial of equal and uniform protection.

Status: Case dismissed for want of prosecution on 07/11/07.

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***CarMax Auto Superstores, Inc. v. Strayhorn, et al.***

Cause Number: GN400433

AG Case #: 041921990

Filed: 2/12/2004

Motor Vehicle Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Reenan, Lara L.

Henry Oddo Austin & Fletcher / Dallas

Issue: Whether Plaintiff's tax collection and financing activities are legal under the Tax Code, Finance Code and Constitution.

Status: Co-defendant's motion to dismiss granted 06/21/04.

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***Cingular Wireless of Austin, LP, formerly known as GTE Mobilnet of Austin, LP; GTE Mobilnet of South Texas, LP; GTE Mobilnet of Texas RSA #17, LP; et al. v. Strayhorn, et al.***

Cause Number: GN502649

AG Case #: 052186616

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$10,177,377.49	01/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether purchases of telecommunications equipment qualify as tangible personal property for ultimate sale as tangible personal property that are exempt from sales tax under the manufacturing and processing exemption. Whether electricity purchased and used in telecommunications is exempt from sales tax under the manufacturing and processing exemption.

Status: Case Dismissed for Want of Prosecution on 11/19/07.

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***ConocoPhillips Company v. Strayhorn, et al.***

Cause Number: GN403149

AG Case #: 042035626

Filed: 9/22/2004

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$539,224.78	01/01/95 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Nielson, Jamie	Attorney at Law / Austin
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Issue: Whether Plaintiff's refund claim fell within the statute of limitations deadline once the high-cost gas exemption or reduction was applied. Whether the high-cost gas refund claim involves the same type of tax as the marketing cost deduction claim which was the basis for the Section 111.207(d) tolling.

Status: Agreed Judgment signed 02/11/08.

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***Cypress-Fairbanks ISD, et al. v. Troy G. Rountree, et al.***

Cause Number: 2004-54335

AG Case #: 042056796

Filed: 9/30/2004

Property Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Spears, Walter E.                      Bartley & Spears, P.C. / Houston  
Hamilton, Stephen K.  
McLaurin, IV, Neil H.

Issue: Whether Tax Code §32.05(c), which subordinates the liens of property owners' associations, is unconstitutional.

Status: Case Dismissed for Want of Prosecution 08/29/06.

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***Ebrahim, Suleiman S. v. Strayhorn, et al.***

Cause Number: GN500567                      AG Case #: 052113388                      Filed: 2/22/2005

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$43,847.15	01/01/96 - 02/25/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Butler, Lynn Hamilton                      Brown McCarroll, L.L.P. / Austin  
Spurck, Robert L.

Issue: Whether Plaintiff is liable for sales tax assessed against his father's business. Plaintiff also seeks attorneys' fees.

Status: Case Dismissed for Want of Prosecution 10/05/07.

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***Kroger Company, The v. Strayhorn, et al.***

Cause Number: GN403582                      AG Case #: 042058032                      Filed: 10/28/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$366,142.79	01/01/94 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Moore, D. Mark                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether electricity used in a manufacturing process is exempt from sales tax. Whether the manufacturing process used by Plaintiff results in a physical change to tangible personal property being resold.

Status: Case Dismissed for Want of Prosecution 08/24/07.

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***Lake Austin Spa Investors, Ltd. v. Rylander, et al.***

Cause Number: GN203899

AG Case #: 021703913

Filed: 10/28/2002

Hotel Occupancy Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
\$193,629.45	03/01/97 - 11/30/00
\$59,232.72	12/01/00 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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Manning, Kirk R. Cantey Hanger LLP / Austin  
Levine, Jeremy  
Lane, Julie K.

Issue: Whether Plaintiff's service charges are subject to the hotel tax. Whether the charges are gratuities under the Comptroller's rule. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Discovery in progress. Settlement negotiations in progress. Order to Retain signed 03/29/07. Agreed Judgment signed and entered 02/14/08.

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***Lexington Insurance Company, Landmark Insurance Company v. Rylander, et al.***

Cause Number: GN100569

AG Case #: 011417896

Filed: 2/22/2001

#03-03-00169-CV

#04-0429

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,596,196.63	1992 - 1995
\$36,174.92	1992 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Hollingsworth, Cynthia

Gardere Wynne & Sewell / Dallas

Frisbie, Jr., Curtis L.

Martin, Jeremy

Issue: Whether an authorized surplus lines insurer is required to pay unauthorized insurance tax when the Comptroller is unable to verify payment of tax by the agent. Whether the Comptroller wrongfully relied on another hearings decision as precedent. Plaintiff also seeks injunctive and declaratory relief and attorneys' fees.

Status: Summary Judgment hearing held 08/01/02; Summary Judgment granted for insurers. Notice of Appeal filed 03/21/03. Appellants' brief filed 08/15/03. Appellee's brief filed 11/10/03. Appellants' reply brief filed 12/05/03. Oral argument held 01/07/04. Third Court of Appeals reversed and remanded trial court's judgment 02/20/04. Appellees filed Motion for Consideration En Banc and Motion for Rehearing 03/08/04; overruled 03/25/04. Petition for Review filed 06/24/04. Waiver of Response filed 07/06/04. Case forwarded to Court 07/13/04. Response to Petition for Review filed by Respondent 08/26/04. Petitioner's Reply filed 09/17/04. Court requested briefs on the merits. Petitioners' brief filed 11/18/04. Respondents' brief filed 01/07/05. Amicus Curiae posted 01/18/05. Petitioner's reply brief on the merits filed 01/27/05. Court requested reply from Respondents; reply brief filed 03/17/05. Lexington filed a motion on 03/23/05 to strike and/or seal the Amicus Brief of Varco Int'l. Response filed 04/13/05 at the Court's request. Petition granted 05/27/05. Motion to Strike Amicus Brief denied and Motion to Seal granted 05/27/05. Submitted on Oral Argument 09/28/05. Amicus Curiae posted 10/18/05 and 10/21/05. Opinion issued 12/01/06 affirming Court of Appeal's judgment. Case remanded to trial court. Parties to determine amount for final judgment. Third party filed motion to unseal court records. Hearing on motion held 04/30/07. Motion granted. Agreed Judgment signed 11/01/07.

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***Local Neon Company, Inc. v. Rylander, et al.***

Cause Number: 99-15042

AG Case #: 001254036

Filed: 12/31/1999

#03-04-00261-CV

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$34,390.24      01/01/88 - 03/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff was doing business in Texas by delivering and installing its signs that were sold under contract negotiated outside of Texas. Whether Plaintiff is entitled to declaratory judgment and attorneys' fees.

Status: Plea to the Jurisdiction granted to State 04/07/04. Notice of Appeal filed 04/29/04. Appellant's brief filed 07/01/04. Appellees' brief filed 08/02/04. Submitted on briefs 12/06/04. Opinion issued 06/16/05 affirming trial court's Judgment in part, reversing the Judgment in part, and remanding the case. State's Motion for Rehearing filed 06/30/05. Court requested response 08/01/05. Appellant's response filed 08/11/05. Appellees' response filed 08/19/05. Motion for Rehearing overruled 11/01/05. Plaintiff filed Notice of Nonsuit 12/01/06.

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***Lockheed Martin Corporation v. Strayhorn, et al.***

Cause Number: GN300420

AG Case #: 031751118

Filed: 2/10/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$2,837,000.00      07/01/97 - 07/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Case settled.

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***Lockheed Martin Corporation, as Successor to Lockheed Martin Vought Systems Corporation and Loral Vought Systems Corporation v. Rylander, et al.***

Cause Number: GN103525

AG Case #: 011523446

Filed: 10/24/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$2,680,000.00	09/01/92 - 11/30/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff also seeks attorneys' fees.

Status: Case settled.

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***Lockheed Martin Corporation, Successor to Lockheed Martin Vought Systems Corporation v. Rylander, et al.***

Cause Number: GN201725	AG Case #: 021620414	Filed: 5/23/2002
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Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,857,000.00	12/01/95 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray

Sigel, Doug

Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Case settled.

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***MFC Finance Company of Texas v. Combs, et al.***

Cause Number: GN002653	AG Case #: 001352632	Filed: 9/7/2000
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#03-06-00328-CV

Motor Vehicle Sales Tax; Refund

Claim Amount	Reporting Period
\$5,533,079.80	01/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff is entitled to tax credit and refund as provided under the sales tax bad debt statute for motor vehicle taxes on installment sales where the purchaser defaulted. Whether the refusal to allow a refund violates equal taxation because there is no rational basis to treat installment sellers of vehicles differently than vehicle renters and other retailers.

Status: Trial setting passed. Plaintiff filed Motion for Partial Summary Judgment 03/03/05. Summary Judgment hearing held 04/12/06. Comptroller's Motion for Summary Judgment granted in full; MFC's motion denied 04/28/06. Notice of Appeal filed in the 3COA 06/12/06. Clerk's Record filed 07/10/06. Appellant's brief filed 08/11/06. Letter filed by Appellee 09/07/06. Supplemental Clerk's Record filed 10/04/06. Appellees' brief filed 10/09/06. Appellant's reply brief filed 10/31/06. Submitted on Oral Argument 11/29/06. Memorandum Opinion issued 05/01/08, affirming judgment for the Comptroller.

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***Mineral Wells ISD v. Strayhorn***

Cause Number: D-1-GV-06-001445 AG Case #: 062389838

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties

in Categories A and D3 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A and D3 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Discovery in progress. Nonsuit filed 02/15/08.

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***Saudi Refining, Inc. v. Rylander, et al.***

Cause Number: 99-04227

AG Case #: 99-1155755

Filed: 4/9/1999

Franchise Tax; Refund

Claim Amount	Reporting Period
\$502,834.84	1994 - 1995
\$190,000.58	1994 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

Monzingo, Christine

OAG Taxation / Austin

*Opposing Counsel*

Lipstet, Ira A.

DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Whether Plaintiff may take franchise tax credit as a joint venture partner for equipment sales taxes paid by the joint venture.

Status: Hearing on Cross-Motions for Summary Judgment held 12/16/02. Judgment granted for State 01/23/03; case closed. Notice of Court Setting for Dismissal for Want of Prosecution issued 11/02/06. Plaintiff filed Motion to Retain 11/22/06. Case reopened 02/16/07. Hearing on Motion to Dismiss held 06/11/07. Defendant's Motion to Dismiss granted on 06/15/07. Plaintiff filed an appeal on 07/05/07. Appellees filed a Motion to Dismiss for Want of Jurisdiction and Brief on the Motion on 08/24/07. Appellant filed a Response to the Motion on 09/14/07. Appellees filed a Reply to Appellant's Response on 09/26/07. Memorandum Opinion issued 10/12/07 dismissing the appeal for want of jurisdiction. Motion for Rehearing not filed.

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***St. Paul Surplus Lines Company v. Rylander, et al.***

Cause Number: GN102788

AG Case #: 011490877

Filed: 8/24/2001

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$163,021.27	01/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Jones, Michael W.              Thompson, Coe, Cousins & Irons / Austin

Lee, Kevin F.

Geiger, Richard S.              Thompson, Coe, Cousins & Irons / Dallas

Issue: Whether Plaintiff, an eligible surplus lines insurer, is liable for unauthorized insurance tax. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: To be determined by Lexington Insurance Co., Landmark Insurance Co., et al. v. Strayhorn, et al. Dismissal notice has been received from the court.

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***Texaco Exploration & Production, Inc.***

Cause Number: GN400440

AG Case #: 041925843

Filed: 2/13/2004

Gas Production Tax; Refund

Claim Amount      Reporting Period

\$456,608.80      01/01/97 - 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.              Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Meese, Matthew J.

Issue: Whether Plaintiff's initial refund claim, still pending administrative review at the time of filing a second claim, fell within the statute of limitations deadline.

Status: MSJ hearing set 09/12/07. Settlement negotiations pending. Agreed Judgment signed 09/11/07.

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***That's Entertainment - San Antonio, L.L.C. dba Park Place v. Strayhorn, et al.***

Cause Number: GN400781

AG Case #: 041937228

Filed: 3/9/2004

Mixed Beverage Gross Receipts Tax; Protest

Claim Amount	Reporting Period
\$211,145.65	05/01/96 - 09/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Meese, Matthew J.	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether door charges should be taxed by both the mixed beverage gross receipts tax and sales tax. Plaintiff claims that the application of both taxes is in violation of equal and uniform taxation, and equal protection under the law. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Case Dismissed for Want of Prosecution 07/11/07.

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***Zimmerman Sign Company v. Strayhorn, et al.***

Cause Number: GN500612

AG Case #: 052113065

Filed: 2/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$105,046.66	01/01/95 - 04/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether certain equipment, machinery, parts, supplies and consumables purchased to manufacture exterior signs are exempt from sales tax under the manufacturing exemption. Whether or not Plaintiff is a "contractor" to qualify for the manufacturing exemption.

Status: Case dismissed for want of prosecution. Order signed 10/5/07.

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